

DRAFT DISCUSSION PAPER
GOA GROUND FISH RATIONALIZATION PROGRAM
JANUARY 2003

Prepared by staff
North Pacific Fishery Management Council
National Marine Fisheries Service Sustainable Fisheries Division

January 22, 2003

EXECUTIVE SUMMARY

The Gulf of Alaska Work Group presented its final recommendations on alternatives, elements, and options for an analysis to rationalize the GOA groundfish fisheries at the December 2002 Council meeting. There was insufficient opportunity for the Council, Advisory Panel, staff, and the public to review and provide a meaningful evaluation of those recommendations. What was clear was that the 34 pages of elements and options would benefit from a comprehensive examination of each of the alternatives, elements, and options against the goals and objectives for rationalizing these fisheries which were adopted by the Council in April 2002. To that end, the Council requested that staff provide recommendations on developing an analytical package that balances the problems in the fisheries and management objectives with taking final action and implementing sweeping changes to managing these fisheries in a timeframe that meets the economic crises in some GOA communities. The specific items that the Council requested be evaluated in this discussion paper are listed below. The Council and staff recognizes that each element and option is important to those who support it, but that it may not be feasible to analyze or implement all elements or all variants of an element in one analysis. Staff suggestions include deferring some elements to trailing amendments.

The Council requested that the following items be reviewed in this discussion paper

- a. elements and options that may be difficult or time-consuming to analyze due to data limitations;
- b. elements and options that may provide limited insight or flexibility relative to the work required to analyze the particular option or a similar option;
- c. elements and options supported by the body of scoping comments;
- d. administrative requirements and/or outstanding legal concerns with the community elements and options;
- e. elements and options that need further clarification before initial analysis could commence;
- f. ways to streamline the elements and option to reduce workload and/or better illuminate the decision points;
- g. identify which elements of catcher processor proposals are not currently included in the main suite of options and discuss issues associated with those elements that were not carried into the suite of elements and options compared with retaining the structure of the original proposals as stand-alone alternatives;
- h. identify the number of GOA communities with fewer than 5,000 residents that have processed at least 500 mt of groundfish during each year of the qualifying period (1995-2002).

Staff have addressed the above items and recommended streamlining the analysis by eliminating certain elements, options, and suboptions. Staff made each recommendation independent of the others. Therefore, the Council may adopt all, some, or none of the staff recommendations, based on its review, AP recommendations, and additional public testimony. Staff recommended that the Council thoroughly review Alternative 2 to determine whether revising the License Limitation Program sufficiently addresses the problems and objectives in this fishery. Staff also recommended that the Council consider adding a “cooperative only” alternative, as all other (voluntary and mandatory) cooperative subalternatives or options are embedded within quota share-based programs. Staff recommended that elements for an entry level rockfish program, community enhancement programs, and fee and loan programs be deferred to trailing amendments. Elements for non-FMP and non-target species management and habitat could be deferred to other analytical initiatives. An element for and monitoring and enforcement could be deleted as these issues will be incorporated into the analysis of all of the alternatives, elements and options. The detailed list of staff suggestions for revising the elements and options is attached to the discussion paper as a checklist for Council action and in a redlined version of the elements and options also attached to the discussion paper.

The Council also requested that staff identify where elements of the original catcher/processor proposals were not included within the committee recommendations. Staff and CP sector representatives jointly conducted this review. A number of recommendations from the CP sector are included. Staff did not adopt these changes and the proposed C/P revisions to the elements and options are not included in Appendix 1.

Information on the number of GOA communities with *fewer than 5,000 residents that have processed at least 500 mt of groundfish during each year of the qualifying period (1995-2002)* was requested by the Council to provide relevant information of the extent to which the regionalization programs might be needed. Only Sand Point and King Cove meet the above criteria.

I. BACKGROUND

Since their inception, Gulf of Alaska groundfish fisheries have attracted participants willing to undertake the financial and personal risks necessary to participate in them. In recent years, the substantial investments of participants together with stock declines and measures to avoid Steller sea lion fishery interactions have resulted in a race for fish in these fisheries. The shortest fisheries are typically prosecuted during a 3 or 4 day season each year ("A" season pollock). Actions taken by managers to protect declining stocks of groundfish and Steller sea lions by reducing groundfish allowable catch have increased the economic stress on participants and communities that depend on these fisheries and increased pressure on participants to take greater risks. For several years, the North Pacific Fishery Management Council (Council) has worked with participants to address these problems through series of working groups and management measures. Since implementation of the Individual Fishing Quota program for sablefish in 1995 and the License Limitation Program (LLP) for all other groundfish in 2000, the Advisory Panel and two GOA rationalization committees recommended that a variety of analyses be undertaken to address problems in the fisheries (1) species endorsements to LLP licenses; (2) rationalizing the entire GOA groundfish fisheries (e.g., IFQs or cooperatives); (3) rationalizing Pacific cod in the Western, Central, and West Yakutat regulatory areas (two-pie (harvester and processor allocations) IFQ program, a Dooley-Hall and AFA system for cooperatives, with community and bycatch allocations under all programs; (4) strawman for rationalizing rockfish; and a pilot cooperative program for P. cod and pollock in the Western and Central Gulf.

In the Consolidated Appropriations Act of 2001 (Pub. L. No. 106-554), the Congress directed the Council to conduct an analysis of several different approaches to rationalizing the GOA groundfish fisheries, some of which are beyond the current authority of the Council, such as individual fishing quotas, processor quotas, cooperatives, and quotas held by communities. Since the Council adopted many of the recommendations of the January 2002 staff discussion paper (see box), the Council's GOA Work Group has conducted a series of public meetings to provide the Council with recommendations for a problem statement, objectives, and a suite of rationalization alternatives, elements and options for analysis to revise management of these fisheries. NMFS also initiated the scoping process for this proposed action and conducted public hearings in nine communities in Alaska and Washington.

In 2002, the Council:

- (1) revised its problem statement and goals and objectives for rationalizing the GOA groundfish fisheries (Attachment 1).
- (2) created a new committee to focus on development of alternatives, elements, and options for rationalizing the GOA groundfish fisheries.
- (3) prioritized a comprehensive approach for management changes for all groundfish species in all GOA management areas (except Southeast Outside), rather than a step-wise approach (e.g., gear allocations).
- (4) included consideration of (a) a 1-pie/2-pie IFQ program, (b) a comprehensive cooperative program, and (c) an LLP recency requirements.
- (5) is focusing the rationalization alternatives for analysis.

The Council has set out to develop a program that addresses several concerns in the GOA groundfish fisheries. The problem statement adopted by the Council in April 2002 highlights reduced economic viability of harvesters, processors, and GOA communities; bycatch; occupational safety; reduced product value and utilization; community stability; changes in the ecosystem; and adaptability to Magnuson-Stevens Act (MSA) requirements to minimize bycatch and protect habitat and other applicable law. Harvests and revenues from the fisheries suggest some of the economic problems facing the participants.

Problem Statement for Gulf of Alaska Groundfish Rationalization (Adopted April 2002)

Increasing participation in the Gulf of Alaska fisheries, as well as increasing catching and processing capacity, have intensified the race for fish with the attendant problems of:

- reduced economic viability of the harvesters, processors, and GOA communities,
- high bycatch,
- decreased safety,
- reduced product value and utilization,
- jeopardy to community stability and their historic reliance on groundfish fishing and processing,
- limited ~~the~~ ability of the fishery harvesters and processors to respond to changes in the ecosystem,
- limited ~~the~~ ability to adapt to Magnuson-Stevens Act (MSA) requirements to minimize bycatch and protect habitat, and
- limited ~~the~~ ability to adapt to changes to other applicable law (i.e., Endangered Species Act).

All of these factors have made achieving Magnuson-Stevens Act goals difficult and force re-evaluation of the status quo.

Objectives

1. Maintain the character of an independent harvester fleet while allowing for meaningful reduction of excess capacity.
2. Foster a healthy, competitive processing and harvesting environment.
3. Protect the harvesting, processing, and community sectors from losing the relative value of their existing investments.
4. Maintain the relative market balance between the harvesting and processing sectors.
5. Provide opportunities for Gulf of Alaska coastal communities to benefit from rationalization programs.
6. Consider historic and recent participation for allocating the benefits of rationalization to all three sectors.
7. Maintain and encourage participation in rationalized fisheries by active holders of quota shares, catch histories, or licenses.
8. Effectively control excessive consolidation and vertical integration by all sectors.
9. Consider the status of skippers and crew.
10. Provide entry level opportunities for individuals.
11. Meet Magnuson-Stevens Act requirements, including conservation requirements.
12. End the race for fish and improve the economic viability of harvesters and processors.

Public testimony reported that rationalization is needed primarily to address excess harvesting capacity and resource allocation problems in the GOA groundfish fisheries. The proposed groundfish rationalization program represents the next step toward development of a Comprehensive Rationalization Plan (CRP) for all fisheries under the Council's jurisdiction. The Council made a commitment at its November 1992 meeting to develop and implement a "comprehensive and rational management program for the fisheries" under its jurisdiction, including the groundfish fisheries in GOA and Bering Sea/Aleutian Islands management areas and the BSAI commercial king and Tanner crab fisheries. Since that time, the Council has taken a step-wise approach toward fulfilling its commitment to the overall rationalization process by first instituting a groundfish Vessel Moratorium Program (Moratorium) in 1998, a groundfish License Limitation Program (LLP) in 2000, and adopting a "voluntary three-pie cooperative" program for the major BSAI crab fisheries in 2002.

The Council has attempted to improve the economic efficiency of GOA groundfish fisheries over the past 25 years. The groundfish, crab, and halibut fisheries in the North Pacific evolved rapidly with the expansion of the domestic fleet after the establishment of the Exclusive Economic Zone and the Magnuson-Stevens Act in the mid-1970's. Concern over excessive harvesting capacity is a recurrent theme dating back to the early 1980's. In particular, industry and managers became concerned that overcapitalization was occurring due to

increasing competitive pressure to maximize harvesting or processing in as short of a time as possible— the “race for fish.” By September 1987, the Council adopted a statement that it was “committed to pursue alternate management methods that will ... achieve more productive and rational effort and harvest levels in the groundfish fishery (NPFMC 1992).” In June 1991, the Council initiated development of a comprehensive plan to rationalize the GOA and BSAI groundfish and crab fisheries. This comprehensive rationalization plan (CRP) identified several tools that could be used to reduce overcapitalization and end the race for fish, including some of those tentatively identified as alternatives for this SEIS (See Section 3.0). In particular, in September 1991, the Council noted its intent to use IFQs as “the primary management scheme for resolving the allocation problems in the fishery under its authority (NPFMC 1992).”

Although the Council never recommended a CRP to the Secretary, it has adopted numerous measures over the past ten years that address some of the concerns raised through the CRP process. In particular, the recommendation and approval of the Vessel Moratorium Program, the Halibut and Sablefish IFQ Program, the License Limitation Program, and the passage of the American Fisheries Act have all contributed to a step-wise approach toward the Council’s commitment to the overall rationalization process (NPFMC 2002). Figure 1 provides an overview of those actions.

In February 2002, the Council formed a third committee, the GOA Work Group, to provide more focused discussion and recommendations to the Council. In December 2002, The GOA Work Group provided its final recommendations on elements and options under five management alternatives. In addition to the series of Council committee’s, members of the fishing industry and environmental organizations have prepared, presented, and discussed numerous alternatives to rationalization over the past three years. All of these proposals have included numerous provisions and requirements detailing the distribution of quota; incorporation of various communities, skippers, crew members; bycatch considerations; habitat conservation; and other factors. However, at this point there does not appear to be a single widely supported alternative for rationalization. The public process associated with preparing this SEIS may help to provide the Council with additional guidance on the scope and range of alternatives as it moves forward on this controversial and complex topic.

The management history of allocating groundfish resources between the Bering Sea and Gulf of Alaska and within the Gulf has a decade-long history. The Council has adopted, and the Secretary of Commerce has approved, management measures to allocate groundfish resources among users, fishing areas, and seasons and to limit entry of vessels into the groundfish fisheries. In its continuing development of a comprehensive rationalization program (CRP), the Council has begun to explore mechanisms to rationalize the groundfish fisheries of the Gulf of Alaska to address excess harvesting capacity and resource allocations.

Upon receiving the completed suite of elements and options for analysis by its committee at its December 2002 meeting, the Council requested that staff prepare a second discussion paper on the committee recommendations for elements and options for analysis under four alternatives to status quo management of the Gulf of Alaska (GOA) groundfish fisheries. The specific issues requested to be addressed in this paper are listed below.

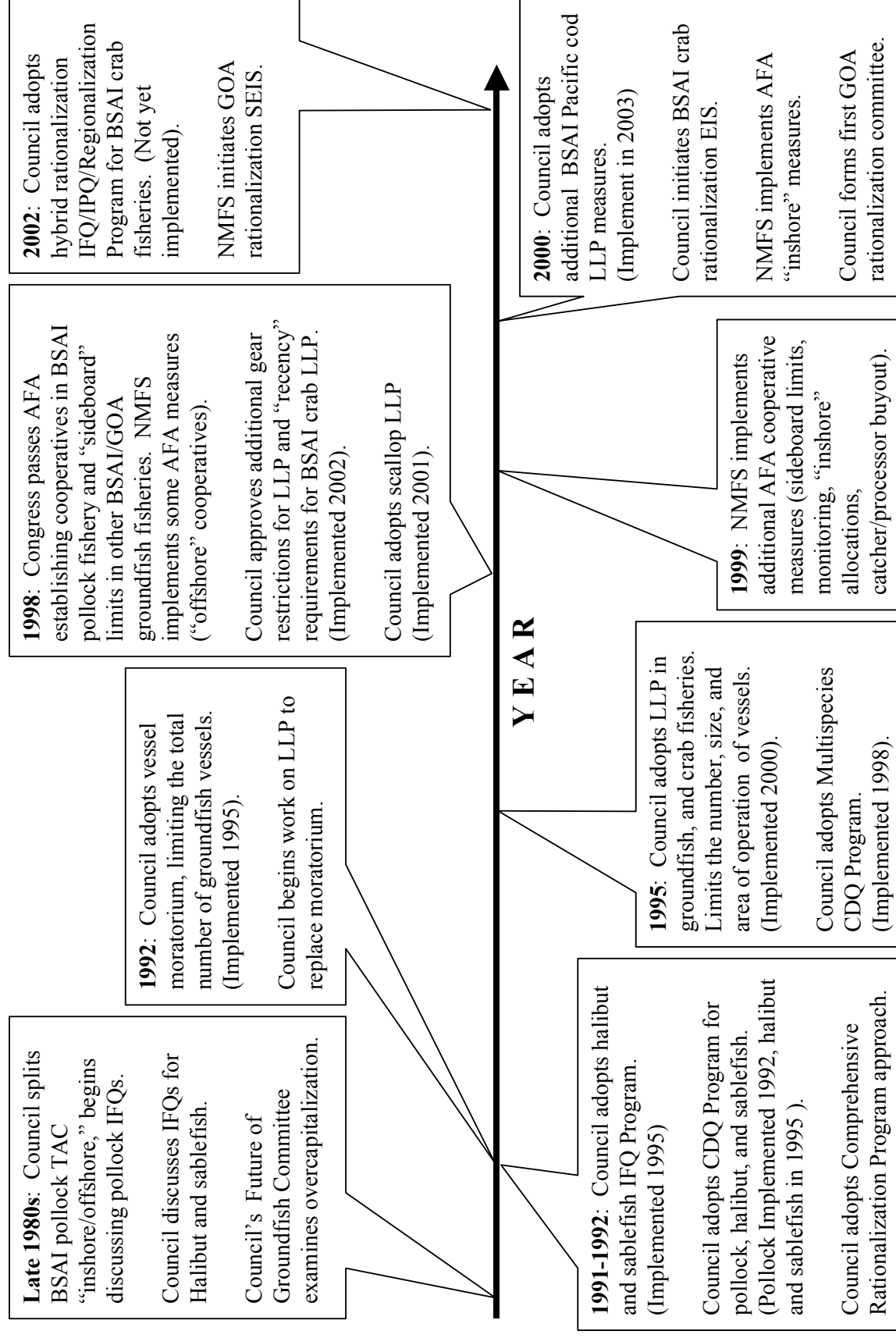


Figure 1: Major Milestones in Rationalization

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| <ul style="list-style-type: none"> a. elements and options that may be difficult or time-consuming to analyze due to data limitations; b. elements and options that may provide limited insight or flexibility relative to the work required to analyze the particular option or a similar option; c. elements and options supported by the body of scoping comments; d. administrative requirements and/or outstanding legal concerns with the community elements and options; e. elements and options that need further clarification before initial analysis could commence; f. ways to streamline the elements and option to reduce workload and/or better illuminate the decision points; g. identify which elements of catcher processor proposals are not currently included in the main suite of options and discuss issues associated with those elements that were not carried into the suite of elements and options compared with retaining the structure of the original proposals as stand-alone alternatives; h. identify the number of GOA communities with fewer than 5,000 residents that have processed at least 500 mt of groundfish during each year of the qualifying period (1995-2002). |
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Item h (above) specifically requested a review to determine whether the CP proposals are incorporated into the committee's recommendations for elements and options. Catcher/processors (CPs) have a unique position in the program because they participate in both the harvest and processing sectors. These vessels rely on flexibility in catch composition, product mix and operating area to be successful. Many of these vessels are owned or managed by corporations rather than individuals. Shares in the GOA groundfish fishery would carry both a harvest privilege and an accompanying on board processing privilege. Some of the elements and options which may apply to shoreside entities may not be appropriate for CPs. Item g addresses the degree to which these concerns are represented in the committee recommendations for elements and options. The CP fleet fishing in the GOA wants to ensure that appropriate options for the CP sector are available under the QS alternatives. Specifically, alternatives which have to do with regionalization may not apply. The AFA provision for intrinsic bycatch for BSAI pollock CPs (specific to squid and Pacific ocean perch) could be a model for addressing meal production because GOA CPs do not have meal plants to ensure they can continue at historic levels. The fleet supports similar options to halibut and sablefish "A" class QS, including full leasing allowances, hired skippers, and forming a new corporation to buy QS. Allocations to skippers should take into account that CP captains may not consistently fish the same seasons every year. Only a few additions to the elements and options are needed to address these concerns and would allow the Council to set separate requirements for the CP sector. Staff has not reviewed the CP recommendations for inclusion in the analysis as thoroughly as was done for the committee recommendations due primarily to time constraints. Council discussions with CP sector representatives during public testimony at the January Council meeting regarding their proposals will provide additional information.

Staff of the Council, NMFS-Sustainable Fisheries, NMFS Restricted Access Management, and NMFS Enforcement have coordinated efforts in responding to the above request. A separate request for a **legal opinion** from NOAA General Counsel on Community Territorial Use Rights In Fisheries (TURFs), Community Incentive Fisheries Trusts (CIFTs), and Community Fisheries Quotas (CFQs), and other potential legal problems that could affect the ability to adopt a regionalization program in the GOA will be prepared. An ADFG discussion paper on management of State parallel fisheries in the context of proposed alternatives to rationalize GOA groundfish fisheries.

GOA rationalization in context with other fisheries management issues

Efforts to rationalize GOA groundfish has been accelerated due to several developments over the past several years shown at right. These developments encouraged the Council to form a GOA Cooperative Committee in June 1999 to review options for GOA groundfish management. The Committee met from June 1999 through June 2000. The committee recommended rationalization proceed through a GOA FMP amendment

that would supercede any proposed action to modify the LLP. In December 2000, the Council appointed a revised GOA Rationalization Committee. However, this second committee recommended incorporating a recency requirement on the existing LLP as a short term measure before a complete rights-based rationalization program. This committee also recognized potential conflicts occurring within state waters during the federal fishery season and recommended a problem statement on GOA rationalization (NPFMC 2002). In April 2001, the Council adopted this problem statement, and then in June 2001, adopted a similar "vision" statement. The GOA Rationalization Committee did not reach consensus on a specific approach to address current management concerns or rationalization.

The Council is facing a number of daunting challenges to revise management of groundfish fisheries in the BSAI and GOA over the next few years (see box at right). Administratively, NMFS Restricted Access Management Division may be faced with incorporating the halibut charter sector with the existing commercial quota share program and developing the crab quota share program (pending Congressional authorization and Secretarial approval). Many management and administrative issues continue to be addressed in the BSAI crab rationalization analyses (and involve some of the same staff) that will need to be addressed in any GOA rationalization efforts.

Therefore, staff recognizes the importance of each of the proposed elements to the proposers and their constituents and notes that the Council specifically tasked staff with suggesting ways to

streamline the elements and options in the analysis, including their consolidation, deferral to a trailing amendment, and deletion. While it may be ideal to analyze all of the proposed elements and options in their entirety, the Council has recognized the need to balance speed and efficiency in achieving its goal of rationalizing these fisheries. Staff has identified all those elements and options that COULD be streamlined while still developing the necessary elements for rationalizing fisheries. The Council may adopt all, some, or none of the staff recommendations as it develops a reasonable range of alternatives for analysis.

The Council also tasked staff with ensuring that all the necessary alternatives, elements and options were included to satisfy national environmental policy and Magnuson-Stevens Act requirements. Additional staff recommendations for streamlining and clarification may be provided to the council in the analysis.

If the Council initiates the analysis to complete the EIS for this proposed action and identifies the Alternatives, elements, and options at this meeting, staff would prepare an analytical outline and timeline for

Recent Developments

- a continuing concern about increasing participation, excessive capacity and the resulting "race for fish;"
- additional management restrictions to limit the potential impact of groundfish fisheries on the endangered Steller sea lion;
- increased effort by vessels in the GOA Pacific cod pot fishery by vessels displaced from the BSAI crab fishery due to diminished crab resources;
- potential habitat conservation requirements;
- implementation of the American Fisheries Act which may have improved the competitive advantage of a segment of the groundfish fishery;
- decreasing profitability in a number of State-managed fisheries over the past decade (e.g., salmon, herring) and increasing the reliance on Federal groundfish resources.

MANAGEMENT ACTION COMPLETION

• Steller sea lion RPAs	June 2003
• BSAI crab rationalization	2003
• TAC-setting process	2003
• Pribilof blue king crab rebuilding plan	2003
• Target and non-target species - Rockfish	2003
• Halibut subsistence amendment	2003
• Essential fish habitat	August 2004
• Programmatic Supplemental Environmental Impact Study	May 2005
• Halibut charter IFQ program -Community allocations	??
• BSAI LLP recency requirements	??
• Pacific cod fixed gear allocations	??
• Observer program	??
• GOA salmon bycatch caps	??

completion for Council review in **June 2003**. This timeline would allow for internal agency discussions by NMFS and the Council and allow for inter-agency discussions. Staff will need to identify appropriate staffing and contract needs once the final suite of alternatives, elements, and options are identified, recognizing the current priority on the Draft Programmatic Supplemental EIS and the Essential Fish Habitat EIS. Any additional requests for clarification or suggestions for streamlining would be included in that report.

Definition of Rationalization and Experiences from the AFA

The Council initiated this SEIS to analyze the potential effect of changes to the current management measures to improve the economic efficiency of the GOA groundfish fishery. This is referred to as rationalization. There is no clearly agreed upon definition of rationalization, and definitions may vary depending on the perspective of those involved in the process (Macinko and Bromley 2002). For the purposes of the Notice of Intent to prepare this SEIS, NMFS provided a general definition of a “rationalized” fishery as one in which the capital investment in the fishery is balanced with the amount of fish that can be harvested and processed conservatively and efficiently. Under this definition, rationalization implies that adoption of management measures would prevent or reduce capital investment in the fishery and may also provide greater flexibility to address a variety of economic, social, and conservation concerns. The degree of capitalization that is acceptable in a fishery is a matter of perspective among individuals, however, actions by the Council indicate that most participants in the industry believe that the fishery has excessive capitalization, or “over-capitalization” and is less efficient than desirable. This implies that the central concern to be addressed by rationalization is the inability of existing participants in the fishery to maintain economically profitable operations under the current management regime.

Some consider rationalization to be accomplished through the allocation of specific individual harvesting and/or processing privileges. Such privileges could be designed to prevent a “race for fish” – the competition between fishery participants to harvest or process the fishery as quickly as possible before the fishery is closed. A “race for fish” typically leads to an ever increasing harvesting and processing capacity and shorter fishing seasons. Under this view, the allocation of individual privileges can minimize or eliminate this potential competition. A simple limited entry system does not necessarily prevent a race for fish, but it does define the group of persons who are in the race. It may not be considered rationalization. However, this understanding of “rationalization” is not uniform among all participants and a specific definition of “rationalization” has not been adopted by the Council.

Based on many of the comments received through the public scoping process, “rationalization” is largely perceived as being accomplished through the use of controlling the amount of fish that can be harvested or processed by a given entity – i.e., IFQs, or IPQs – rather than through the use of controlling the number of participants, but not the amount of harvests by each participant – i.e., limiting licenses. During the public scoping hearings, numerous participants referred to “rationalization” as the allocation of harvester or processor QS. During the public scoping hearings, most individuals considered modifying the License Limitation Permit (LLP) as an alternative to “rationalization.”

A uniformly agreed upon definition of rationalization is not critical since the Council has recognized the need to address certain perennial problems in GOA groundfish management. Overall, it appears that the goal of this “rationalization” process is to improve the economic stability to the various participants in the fishery. These participants may include harvesters, processors, and residents of fishing communities. The Council is considering these new management programs at the request of the GOA groundfish industry to address increasing concerns about changing market and stock abundance conditions, increasing concern about the long-term economic health of fishing dependent communities, and the limited ability of the fishing industry to respond to environmental concerns under the existing management regime.

Scope of the Proposed Action

The scope of the proposed action as identified by the Council is listed in the box at right.

SCOPE OF PROPOSED ACTION

Rationalization of all GOA groundfish species excluding: (1) the sablefish IFQ fishery and (2) groundfish fisheries in Southeast Alaska Outside waters (east of 140° W. long.).

PROPOSED ALTERNATIVES

The Council is considering significant changes to the current management structure of the GOA groundfish FMP by allocating fishing or processing privileges such as: individual fishing quotas (IFQs); individual processing quotas (IPQs); allocations to communities; and fishing cooperatives. Alternatively, the Council may choose to modify the existing License Limitation Program (LLP), or maintain the existing management structure. A variety of management approaches have been discussed by the Council and its committees in during the past three years. Any of these measures could affect numerous aspects of the GOA groundfish fisheries in terms of the timing, methods, number and type of vessels and processing facilities participating, and location of fishing and processing operations used to harvest and process GOA groundfish fisheries.

The **five alternatives** are shown at right. The specific elements for a rationalization program identified thus far include IFQs or fishing cooperatives for either harvesters or harvesters and processors, and quotas held by communities. These tools could be applied either separately or in combination. The ability to combine these elements and options would effectively provide multiple “alternative” rationalization programs.

MANAGEMENT ALTERNATIVES

1. the existing management measures;
2. a modified Licence Limitation Program;
3. a QS-based program for harvesters;
4. a QS-based program for harvesters and closed class of processors; and
5. a QS program for harvesters and processors.

Alternative 1. Status Quo

The status quo alternative is a complex mix of management measures that include the sablefish IFQ Program, the LLP, and a variety of gear, time, and area restrictions. This “no action” alternative is considered to provide contrast and comparison to the proposed alternatives and other reasonable alternatives. Current regulations governing the GOA groundfish fishery are available through the NMFS website (<http://www.fakr.noaa.gov/>). Management measures included in the GOA FMP are available at the Council website (<http://www.fakr.noaa.gov/npfmc/FMP/FMP.htm>).

In view of its previous commitments to develop a comprehensive rationalization program for all North Pacific fisheries, the Council will consider whether the current fishery management regime in the GOA groundfish fisheries sufficiently addresses its overarching management goal and the problem statement and objectives that it adopted for these fisheries.

Alternative 2. Amending the License Limitation Program

The Council approved a License Limitation Program for GOA and BSAI groundfish and BSAI crab fisheries in 1995. It built on the vessel moratorium program that was implemented in 1996. The Council noted in 1998 that the LLP was the first stage in fulfilling the Council’s commitment to develop a comprehensive and rational management program for the fisheries in and off Alaska. It was implemented by NMFS in 2000 and has been modified to incorporate the scallop fishery, and specific gear designations and recency requirements for the BSAI fixed gear Pacific cod fishery and various BSAI crab fisheries. These modifications have further limited the number of vessels that can participate in these fisheries or the number of vessels that can use specific gear in those fisheries. No changes have been made to modify the LLP in the GOA groundfish fisheries.

The LLP limits access to the commercial groundfish fisheries in the EEZ off Alaska, except for: (1) demersal shelf rockfish (DSR) east of 140° W. long., which is deferred to the State of Alaska; and (2) sablefish, which is managed under an IFQ program. Halibut is exempt because it is not managed as a groundfish and is managed under an IFQ program. Essentially, the LLP limits the number of vessels that can fish, but not the specific harvests from those vessels. As the NRC notes “license limitation alone is, at best, a short-term approach with short-term benefits. In the long run, the performance of a license limitation program depends on its use in combination with other management measures (NRC 1999a).” The NRC report does note that “[w]hen IFQs would be difficult to monitor and enforce, however, license limitation could be a viable alternative (NRC 1999a).”

At various points throughout the Council process, some industry members have expressed a desire to refine the LLP as a means to reduce the number of vessels, and indirectly, the potential capitalization in the GOA groundfish fisheries. This approach requires consideration of the criteria used to further limit the number of vessels and other factors that may need to be incorporated to address the Council’s problem statement or objectives. Revising the LLP may avoid controversy of the initial allocation process associated with IFQ or cooperative management. It may be effective if combined with other management measures, but may not directly address specific concerns of overcapitalization as effectively as IFQs or cooperatives. Because the LLP indirectly limits effort, it may be difficult to measure the potential effect of this tool on the overall capitalization in the GOA groundfish fishery. Concerns about the lack of consensus in the industry to proceed with an IFQ or cooperative management approach resulted in the recommendation to revise the LLP as an achievable interim measure.

Problem Statement	Alternative 2 .Revise the License Limitation Program
reduced economic viability of the harvesters, processors, and GOA communities	May not directly address specific concerns of overcapitalization as effectively as IFQs or cooperatives
high bycatch	No.
decreased safety	No.
reduced product value and utilization	No.
jeopardy to community stability and their historic reliance on groundfish fishing and processing	No.
limited ability of the fishery harvesters and processors to respond to changes in the ecosystem	No direct effects on ecosystem management.
limited ability to adapt to MSA requirements to minimize bycatch and protect habitat	See problem statement #2 (redundant?). No direct on protecting habitat; this is being addressed under EFH amendments.
limited ability to adapt to changes to other applicable law	Unknown.

Although NEPA requires a consideration of reasonable alternatives, the consideration of a particular alternative is governed by its ability to address the proposed action’s objectives as articulated in the purpose and need statement. If the Council wishes to consider the LLP as an alternative in this analysis, then it should broaden the problem statement and objectives to allow consideration of alternatives that would not necessarily address the race for fish. For instance, the Council may choose to include such an alternative in case the Council does not adopt a (QS-based) rationalization program. Or it may not adopt a rationalization program for all GOA areas. It could then amend the LLP (for those areas) as an interim measure, as it has done for BSAI groundfish and crab through recency requirements and species endorsements. If it does not adopt an LLP alternative, it may wish to better clarify that ending the “race for fish” and improving the economic stability of the fishery through a QS program for harvesters, processors, and/or communities, with or without overlaying a cooperative program, is the central purpose of “rationalization.” While the problem statement and objectives are open to some interpretation, a consistent theme throughout is to provide increased

economic stability to the fishing industry and end the race for fish. This modification would provide greater support for not including an LLP alternative in the SEIS.

Based on this discussion, it does not appear that the LLP alternative addresses either the problem statement or objectives developed by the Council. **Therefore, the staff recommends that the Council may need to either:**

1. Expand the problem statement and objectives to more explicitly include the LLP alternative; or
2. Address the LLP alternative in a more limited fashion in a section that considers the LLP as an alternative that was considered and rejected.

Elements

The ten elements proposed for amending the LLP (Alternative 2) include those to reduce the number of participants through the use of minimum landings requirements, species endorsements, recency requirements. Elements 1-5 and 7-8 do not have options, so are more descriptive statements rather than decision points; staff suggests listing them under the alternative but not necessarily as “elements” for analysis.

LLP Elements

- Element 1. Management Areas
- Element 2. Gear
- Element 3. Vessel Classes
- Element 4. Vessel Size
- Element 5. Applicable Areas
- Element 6. Minimum Landings Requirements
- Element 7. Type of Species Endorsements
- Element 8. Target species endorsements
- Element 9. Sector
- Element 10. Qualifying periods for LLP reduction

The staff review of the remaining elements and options highlights recency requirements (qualifying periods) for specific comments. A qualifying period of 1995-98 under Element 10, Option 2 may not meet recency requirements as mandated by the MSA 303(b)(6). The Council would have to provide a rationale for its inclusion in the analysis, and ultimately for its selection as the preferred alternative, should that decision be made. The Council should consider whether it would choose an option *that would eliminate those participants who entered the fisheries by purchasing licenses since its action in 1995 (remember that the program was not implemented until 2000)*. There are two groups of harvesters in the GOA: (1) former joint venture partners which ended in 1989; and (2) an exempted class of 13-20 trawlers that were not included in the sideboards associated with the American Fisheries Act. Recent participants have been affected by actions implemented to mitigate the effects of pollock, Pacific cod, and Atka mackerel fishing on Steller sea lions, as well as the movement of pollock off the shelf break.

The options for Element 10 are listed at right (and have been streamlined by staff). As a note of explanation, the suboption to exclude 2000 for Pacific cod pot gear is due to a one year change in the start of the Bering Sea *opilio* season from January 15 to April 1. This delayed season allowed those crab vessels to participate in the GOA pot cod fishery that year. The committee recommendations include a decision point to exclude that year for qualification in the future..

Element 10. Qualifying periods for LLP reduction*

Option 1. 98-2001

Suboption: exclude 2000 for P. cod for pot gear

Option 2. 95-98 - delete?

Option 3. 95-2001

The following suboptions apply to all options:

Suboption 1: exclude 2000 for P. cod for pot gear

Suboption 2: add 2002

*includes staff revisions for restructuring suboptions

Other staff recommendations include clarifying gear endorsements under Element 9. Gear, i.e., fixed gear or hook-and-line and pot gear?

In view of its previous commitments to develop a comprehensive rationalization program for all North Pacific fisheries, the Council should consider whether continuing to take interim steps to address the problems in the GOA groundfish fisheries by amending the LLP with recency requirements sufficiently addresses the need of the fisheries at this time. There has not been strong support for revising the LLP in scoping comments (see later report on scoping)

- b. *limited insights or flexibility relative to work required to analyze (bang for the buck)*: further modifying the LLP does not address problems or objectives in the GOA groundfish fishery
- c. *supported by scoping comments*: limited support for LLP modification. There was some support for considering a modification of the LLP to address concerns raised by the C/P Hook-and-line fleet. Some limited support expressed during the King Cove meeting as a possible measure to address management concerns within the parallel Pacific cod fishery.
- e. *further clarification*: Refine problem statement and objectives either to exclude or to more clearly provide a means to incorporate Alternative 2 in the analysis;
- f. *streamline the analysis*: Restructuring elements into statements results in only three options for analysis, the Council should decide whether to eliminate Alternative 2 from further consideration because it does not meet the problems in the fisheries.

Alternative 3, Subalternative 1, Harvester Only Quota-based Program (Quota Share Program)

The next three alternatives are for quota-based rationalization programs. The first would allocate quota to harvesters only. The second would include processors as a closed class (this is likely to be similar to the way AFA processors are identified). The third would allocate quota to harvesters and processors (“2-pie”). Each of these proposed programs includes an element to allocate quota to communities. Within Alternatives 3 - 5 are two subalternatives: (1) QS-based program; and (2) cooperative program. Within the cooperative subalternatives are two options for: (1) voluntary cooperatives and (2) mandatory cooperatives. The terms mandatory and voluntary may be a bit confusing.

- Voluntary means that IFQ harvesters and possibly IPQ processors can elect to form co-ops with each other.
- Mandatory means that harvesters and possibly processors are eligible to receive IFQ-like and IPQ-like annual QS allocations if they successfully form co-operatives, otherwise they will remain in open access fisheries.

The voluntary co-op options, are subordinate to QS allocation. They are similar to the BSAI voluntary crab co-op plan, in which QS/IFQ/IPQ would be allocated first to eligible participants who are subsequently allowed (but not required) to form co-ops. Under a mandatory program, eligible participants must form co-ops, in order to receive IFQ-like QS allocations for that season. If eligible participants choose not to form a co-op, the default situation is an open access fishery.

Under Alternative 4, an open access fishery may be infeasible under the mandatory co-op subalternative. Coordination of deliveries to IPQ holders could be difficult for harvesters that are racing to fish and simultaneously trying to coordinate deliveries to IPQ holders that are attempting to use their share allocations. These open access deliveries could have consequences for coordination of deliveries by cooperative members. Council clarification of its intent is requested.

Alternative 3. QS-based program harvester only			Alternative 4. QS-based program harvester with closed class of processors			Alternative 5. QS program for harvesters and processors	
Subalternative 1 QS program	Subalternative 2 Cooperative		Subalternative 1. QS program	Subalternative 2 Cooperative		Subalternative 1. Cooperative	Subalternative 2 Cooperative
	Voluntary	Mandatory		Voluntary	Mandatory	Voluntary	Mandatory
Harvester only IFQ plan	Harvester only IFQ plan in which harvesters can choose to form a voluntary co-op with other harvesters. Co-ops may be required to associate with a processor. Without a co-op, they default to an IFQ fishery with deliveries to any processor.	Harvester only IFQ plan in which harvesters must form co-ops with other harvesters to receive an IFQ allocation. Co-ops may be required to associate with a processor. If an eligible harvester chooses not to join a co-op, an open access fishery may be provided.	Harvester only IFQ plan with a closed class of processors. Harvesters are required to delivery a specific percentage to a qualified processor.	Harvester only IFQ plan in which a harvester can choose to form a co-op with other harvesters. Co-ops may be required to associate with a qualified processor. All harvesters are required to delivery a specific percentage to a qualified processor.	Harvesters must form a cooperative with other harvesters in order to receive annual QS allocations. Co-ops may be required to associate with a qualified processor. If an eligible harvester chooses not to join a co-op, an open access fishery may be provided. All harvesters are required to delivery a specific percentage to a qualified processor.	Harvester and Processor QS Program with a voluntary co-op. This program similar to the BSAI Voluntary Crab plan. Eligible harvesters may form co-ops. Co-ops may be required to associate with a qualified processor.	Harvester and Processor QS Program in which harvesters must form a cooperative with other harvesters in order to receive annual QS allocations. Co-ops may be required to associate with a qualified processor. An open access fishery would be problematic.

Alternative 5, as recommended by the committee appears to eliminate the decision point of whether the rationalization program is a QS or cooperative program. Alternative 5 is a “2-pie” QS program for harvesters and processors. Its subalternatives include options for voluntary or mandatory cooperatives. There is no option for just a “2-pie” QS program, although it could happen that no harvesters or processors formed a voluntary cooperative under subalternative 1. The same issues surrounding voluntary and mandatory co-ops apply. Council clarification of its intent in the formatting of the analytical alternatives is requested, i.e., **are “plain co-ops” implicitly included as subalternatives?**) The Council might consider whether a sixth alternative for an AFA-style cooperative not under a QS program should be included.

Descriptions of how QS and cooperative programs have been implemented for halibut, sablefish, and pollock are provided to make the following discussion of elements and options more intelligible. Individual Fishing Quotas (IFQs) have been used extensively throughout fisheries management worldwide, and in the Pacific halibut and sablefish hook-and-line fisheries managed by the Council. An IFQ allocates a certain and fixed percentage of the total allowable catch (TAC) to individual fishermen, vessels, or other eligible recipients based on defined qualifying criteria. By allocating a fixed percentage of fish, operators can tailor their operations to take advantage of this certainty and avoid costly and inefficient race for the fish. IFQs may allow fishery participants to address other conservation or management considerations through the ability it provides to decide when and how to fish. A detailed description of IFQs and consideration of their use as a management tool is provided in the National Research Council report *Sharing the Fish* (NRC 1999 (<http://www.nap.edu>)). That report noted several advantages and disadvantages to IFQs as a fishery management tool, as indicated in the box.

Generally, many of the potential disadvantages of IFQs arise from the initial allocation process, and their effectiveness in removing excess capacity. The NRC report notes that it is likely the most controversial aspect of any IFQ program. The NRC also notes that IFQs are generally more successful when the TAC can be specified with reasonable certainty, improving economic efficiency and reducing capacity is a high priority for managers, broad stakeholder support and participation is present, the fishery can be cost-effectively monitored and enforced, adequate data exist to monitor and manage the fishery, and “spillover”¹ effects on other fisheries is recognized and minimized (NRC 1999).

Crab Rationalization Program. The following description of the crab rationalization program, adopted by the Council in June 2002, is provided to better understand the elements and options listed below. Harvesters would be allocated QS in each fishery rationalized by the program. QS are a revocable privilege that allow the holder to receive an annual

Sharing the Fish
Advantages

- highly effective in reducing overcapitalization and the race for fish
- improved safety
- providing a better quality product
- provides an opportunity to utilize better handling and fishing methods reducing bycatch
- potentially reduces gear conflicts

Disadvantages

- concerns about fairness of the initial allocation of quota share.
- potentially adverse effects on processors
- increased costs for new fishermen to gain entry to the fishery
- consolidation of quota share
- effects of leasing
- elimination of vessels and crew through consolidation
- equity of gifting a public trust resource.

¹Spillover occurs when restrictions in one fishery result in the shifting effort into other fisheries by displaced capital, harvesting or processing capacity. This shift occurs when fishing vessels and processing equipment can transfer among fisheries without incurring significant costs or other restrictive barriers (e.g., caps, prohibitions, limits on harvest, etc...) that community should receive, and how it would be administered within a community are important concepts for the consideration in any allocation of quota to communities.

allocation of a specific portion of the TAC from a fishery. QS would be designated as either catcher vessel shares or catcher/processor shares, depending on whether the vessel that created the privilege to the shares processed the qualifying harvests on board. Catcher vessel QS and IFQ would also be issued in two classes, Class A shares and Class B shares. Class A shares, which would require delivery of harvests to a processor holding processor quota, would be issued for 90 percent of each fishery. Class A shares would also be subject to regionalization, under which harvests would be required to be delivered within an identified region. Class B shares, which would permit delivery of harvests to any processor (except catcher/processors) and would not be regionally designated, would be issued for the remaining 10 percent of each fishery.

A harvester must hold a valid, permanent, fully transferable LLP license endorsed for the fishery to receive a QS allocation in a fishery. *Their use for defining eligibility in the rationalization program streamlines administration of the program.* Use of other criteria would entail additional eligibility adjudication which could be time consuming and inconsistent with current participation requirements.

A harvester's allocation of QS for a fishery would be based on landings in that fishery (excluding landings of deadloss). Qualifying periods were selected to balance historical participation and recent participation. Qualified catch is the catch of the vessel that created the privilege to the LLP license on which eligibility is based. Since LLP licenses are transferrable from vessel to vessel, catch on the vessel on which a license was used would be included in determining the allocation associated with a license. Because the use of license on a vessel was not recorded during the first two years of the LLP, the number of persons that qualify for this provision will not be known with precision. The Council could permit a person that purchased a license to continue to participate in a fishery to receive an allocation based on the history of the vessel on which the license was used.

Halibut/Sablefish IFQ Program. QS and IFQ would both be transferrable under the program, subject to limits on the amount of shares a person may use. Leasing is defined as the use of IFQs on a vessel in which the owner of the underlying QS holds less than a 10 percent ownership interest and on which the underlying QS holder is not present. Transferability of shares is necessary to reduce fleet size and remove capital from the fishery. The limit on leasing by persons not in cooperatives would be intended to create an incentive for cooperative membership.

To be eligible to purchase QS or IFQs a person would be required to be a US citizen and have at least 150 days of sea time in US commercial fisheries in a harvest capacity. An entity would be eligible to purchase shares only if it is at least 20 percent owned by a US citizen with at least 150 days of sea time in US commercial fisheries in a harvest capacity. Initial recipients of QS and CDQ groups are exempt from these eligibility criteria.

Separate caps would be imposed on the ownership of shares by any person and the use of IFQs on any vessel. These caps are intended to prevent excessive consolidation of shares under the program. Limits on consolidation can be used to ensure adequate levels of market competition, facilitate entry to the fishery, protect labor markets, and ensure that the resource supports several participants. Vessel use caps would not apply to cooperatives providing an additional incentive for cooperative participation. Use caps are applied individually and collectively. Under this rule all of a person's direct holdings are credited toward the cap. In addition, a person's indirect holdings are also credited toward the cap in proportion to the person's ownership interest.

Processor ownership of harvest shares would also be limited by caps on vertical integration to protect independent vessel owners and processors that are not vertically integrated. A processor's ownership of QS is limited to 5 percent of the QS pool on a fishery basis. The rules for applying the caps on vertical integration are thought to be more appropriate for limiting consolidation of harvest shares by processors. Initial allocations of shares above the cap would be grandfathered.

An IFQ program was implemented for Pacific halibut and sablefish in 1995. QS were awarded to hook-and-line vessel owners, or lessees, based on their historic catch history. Recently, the Council has recommended expanding the range of QS holders to allow non-profit entities representing qualified communities to hold quota share and lease out the IFQ to community residents (GOA groundfish FMP Amendment). Limits on transferability and consolidation were also included in those programs.

Elements for Rationalization

Seventeen elements have been identified for the two subalternatives of Alternative 3. These are repeated under Alternatives 4 and 5 to streamline the analysis. Only those elements where staff have suggested revisions are noted. Only those Council points (a-g) where staff have comments are included. Additional elements are included under Alternatives 4 and 5 and are described under those sections.

Elements 1, Management Areas, Element 2, Gear, and Element 5, Target Species Rationalization Plan are definitional in nature and would not be analyzed. Element 1 states that Eastern GOA Pacific cod is exempt from the program would be better placed under Element 5. EGOA P-cod is proposed for exemption because the harvest is generally well below the TAC.

Element 3. Qualifying periods

Element 3 is the decision point for the time period over which to base the catch history for awarding the initial QS allocation. Option 2. 95-2000 (drop 1 or 2) could be dropped from the analysis because the range of years is within the range of Option 4 (and could be selected by the Council) and because it may be difficult to provide a rationale for its selection as a preferred alternative in terms of meeting the MSA recency requirements.

- c. *supported by scoping comments*: Written comments submitted by some participants in the C/P sector noted concerns about the allocation of QS based exclusively on retained catch and recommended a full allocation to those vessels which are under 100% observer coverage.
- d. *administrative requirements and/or legal concerns*: Option 2. 95-2000 (drop 1 or 2) may not meet recency requirements

Element 1.	Management Areas
Element 2.	Gear
Element 3.	Qualifying periods
Element 4.	Qualifying landing criteria
Element 5.	Target Species Rationalization Plan
Element 6.	Bycatch Species
Element 7.	PSC Species
Element 8.	Underutilized species
Element 9.	Entry level rockfish program
Element 10.	Non-FMP and non-target species
Element 11.	Skipper/Crew and Second Generation
Element 12.	Communities
Element 13.	Habitat
Element 14.	Review and Evaluation
Element 15.	Sideboards
Element 16.	Fee and Loan
Element 17.	Monitoring and Enforcement

Element 4. Qualifying landing criteria

Element 4 is the decision point for the basis for issuing QS based on catch history. The GOA Work Group debated whether to include or exclude meal, and opted to be inclusive. The Council has included meal by using retained catch in qualifying landings in previous actions. One option included as part of the GOA rationalization program is that fish landed and eventually processed into meal as a primary product should not count toward a catcher vessel's total catch when determining catch histories. This question has been raised as an issue of equity between catcher vessels and catcher processors, and at root a problem because of the different data sources used to estimate catch histories of the two types of vessels.

Catch histories for catcher vessels are based on fish-tickets, which are records of the amount of fish vessels deliver to processors. As such they do not, by definition include any information about fish that are caught

but discarded at sea. Catch histories for catcher processors are based on blend data, which are a combination of observer estimates of total catch and catch composition, and vessel estimates of catch and production. Blend data includes estimates of the portion of total catch that is retained and the portion of total catch that is discarded.

The only source of discard information for catcher vessels are indirect estimates of discards assigned to shore plants, motherships and floating processors. These estimates are calculated by NMFS using observer data aggregated over each fishery, area, and month. These discard estimates cannot be directly linked to discards of specific catcher vessels. Because of the lack of information on discards available for catcher vessels, the primary option for calculating catch history in the GOA rationalization program has been estimates of retained catch. Both catcher vessels and catcher processors have reasonably accurate estimates of retained catch.

The proposal to remove estimates of catcher vessel harvests going directly into meal production has been made by catcher processors who contend that because of the lack of space on their vessels for meal plants the amount of fish they retain is limited. CPs contend that if shore plants did not have meal plants, then catcher vessels would discard a much greater percentage of their total catch and CV retained catches would more closely resemble CP's retained catches. A similar argument is made by catcher vessels that deliver to small shore plants that do not have access to meal plants.

The issue is particularly relevant in flatfish fisheries because both trawl CPs and trawl CVs actively participate and there are no pre-set allocation limits to either sector as are present in the pollock and Pacific cod fishery. When major shore plants in the GOA are focusing on pollock and Pacific cod, deliveries of flatfish are almost all sent to meal. Only when processors are focusing directly on flatfish, do they tend to produce non-meal products out of flatfish. Trawl CPs contend that the amount of flatfish going to meal is significant and that counting it while not counting trawl CP discards will skew catch history amount in favor of CVs. CVs argue that retained catch is retained catch and they have no control over what processors do with their fish once it is delivered.

Setting aside any political arguments on either side of the issue, it is not generally possible to consistently make a direct link from CV harvests to meal production by processors. In some cases, processors report on fish-tickets that fish received in a particular delivery will be sent to the meal plant. However in many other cases there is no indication on fish-tickets whether or not the fish will be processed into meal.

An alternative to removing meal from catcher vessel catch histories would be to establish an at-sea/shore based allocation of the particular species in which meal is an issue. The allocation could be based on catch history or on non-meal production amounts or a combination of both. Once the allocation is established, catch history determinations of CPs and of CVs are independent and the decision to include meal or not is largely moot.

Drop Element 4, Qualifying landings criteria, Issue 2 because it unnecessarily rewrites the LLP.

- c. *supported by scoping comments*: A specific set of qualifying landing criteria did not emerge from the public scoping comments received through the public hearings or through written comments. A number of individuals noted that establishing qualifying years should consider the effects of the implementation of the AFA which may have had an effect on the overall harvests available to non-AFA members and recommended selecting years prior to enactment of the AFA. Other written comments favored using landing criteria including the year prior to actual implementation. Most written comments indicated a preference for "dropping" one or two years for purposes of calculating allocation. Some oral comments received during the King Cove public meeting expressed concern about including the year 2000 for fixed gear vessels in the Pacific cod fishery because there was additional participation by the crab fleet in that year.

- d. *administrative requirements and/or legal concerns*: The MSA requires the Council to consider recent participation in the allocation of any fishery resources. The Council will need to articulate why recent years were not chosen if it decides to allocate based on other criteria.
- e. *further clarification*: The Council spent years developing the LLP and the industry has made economic decisions based on it (e.g., purchased licenses). Issue 2 negates the LLP.
- f. *streamline the analysis*: delete Issue 2

Element 5. Target Species

Element 5 contains the major decision points for the QS-based rationalization program.

- a. *difficult to analyze due to data limitations*: numerous issues are included under this element
- b. *limited insights or flexibility relative to work required to analyze (bang for the buck)*: the objectives of some options and suboptions are not clear or conflict with others
- c. *supported by scoping comments*: Public comments generally supported the allocation of QS to target species. Written comments, in particular those from members of the C/P fleet noted that the allocation of small blocks of QS of non-target, or bycatch species could be constraining, particularly in the management of flatfish and rockfish fisheries.
- d. *administrative requirements and/or legal concerns*: complexity increases administrative burden, data collection requirements, and enforcement difficulties
- e. *further clarification*:
 1. Clarification of the policy objectives for the multiple levels (e.g., sector and species) of QS designation under Issue 2 is requested.
 2. The CP sector raised many concerns for Issue 3 (e.g., sector QS designations, owner of board provisions, sea time requirements for QS/IFQ transfers). Clarification of Issue 3, Option 11, Retention requirements, Suboption 2 is needed as there appears to be a conflict between retention requirements and allowing discards once the IFQs have been achieved; what is achieved by allowing discards once the IFQs have been reached?. Suboption 3 would stop fishing once the IFQs have been reached; this would provide an incentive to fish cleaner and/or transfer additional QS/IFQs to meet harvest levels.
 3. Clarify objective of applying different treatments to CV and CP sector- why separate shares to this level.
- f. *streamline the analysis*: see checklist

Element 6. Bycatch species

Four options under Element 6 address bycatch management of those species recommended to not be included in the QS-based program: thornyhead, shortraker, rougheye, and other slope (sharpchin, redstripe, harlequin, silvergrey, redbanded, yellowmouth, bocaccio, greenstriped, darkblotched, pygmy, splitnose, aurora, blackgill, chilipepper, shortbelly, stripetail, and vermilion) rockfishes. Some amount may need to be reserved (allocated) to cover bycatch in the trawl fisheries. Options 1 - 3 were reordered. Option 4 would create a new category of sablefish IFQ from trawl sablefish catch history. Its suboptions provide gear conversion incentives to allow or require their use by non-trawl gear. This would change the Council's policy of allocating 20% in Western and Central GOA and 5% in the Eastern GOA of the sablefish TAC to trawlers, as set in 1985 under Amendment 14. A trawl prohibition in the Southesat Outside District of the Eastern GOA was implemented under the LLP (Amendment 41) in 2000. The 5% trawl sablefish allocation is added to the West Yakutat area sablefish allocation to comport with the policy. Additionally, some amount of sablefish may need to be reserved (allocated) to cover bycatch in the trawl fisheries.

- c. *supported by scoping comments*: Written and oral comments noted that the use of cooperatives, particularly for the management of halibut and other PSC species would be the most appropriate

mechanism for allocating and managing bycatch. More specific comments on the allocation of QS and the application of cooperatives for the use of managing bycatch is included in the following discussions. The comments articulated by the C/P sector during the development of the elements and options is reflected in the comments incorporated in the discussion of the elements and options.

- e. *further clarification*: Is the Council interested in modifying its policy of sablefish gear allocations?
- f. *streamline the analysis*: Drop Option 4 if not interested in changing its sablefish gear allocation policy.

Element 7. PSC species

Element 7 addresses management of halibut bycatch in the GOA groundfish fisheries under rationalization. Issue 2 may require additional streamlining to combine it into one option with numerous suboptions. Staff recommends deferring Issue 6, PSC Crab, Salmon, and Other Species to a trailing amendment since crab and salmon are not generally a component of these fisheries and modifications to "other species" management has already been initiated under a separate plan amendment.

- c. *supported by scoping comments*: See the comments above in Element 6. Several written comments and comments received through the Seattle public hearing proposed that the creation of an allocation of PSC to a cooperative would address many of the complexities inherent in allocating small amounts of QS to individual vessels.
- e. *further clarification*: Clarify why Pacific cod is treated differently under Issue 2. Clarify Issue 3, Option 2, Suboption 4. Exclude any halibut PSC transferred for participation in the open access fisheries - from what? Clarify why P. cod is exempted from Issue 4, Option 1.
- f. *streamline the analysis*: Defer management of crab, salmon, and "other species" to separate amendments.

Element 8. Underutilized Species

Element 8 addresses management of underutilized species under rationalized groundfish fisheries. In this case, underutilized refers generally to flatfishes for which lack of markets or halibut bycatch preclude directed fisheries from attaining the TACs.

- c. *supported by scoping comments*: A number of individuals commented at both the Sand Point and the King Cove public hearings that allocation of underutilized species should not be made exclusively to those with historic participation, specifically in the Western GOA where there have been limited rockfish and flatfish fisheries. These individuals recommended either maintaining these species under the current LLP restrictions, or providing a specific allocation to communities—this comment was presented at the King Cove hearing.
- e. *further clarification*: Clarify the objective of this element and why it does not include rockfishes other than pelagic shelf rockfishes that are included under Element 9? Clarify the objective for requiring the use of (all?) IFQs before participating in open access fisheries. Markets and seasonal abundances of species may not allow this to occur.

Element 9. Entry level rockfish program

This element is intended to allow entry level opportunities for small boat fishermen to harvest pelagic shelf rockfish. It would allocate between 5 and 15% of the PSR TAC. It is modeled after the State water Pacific cod GHL program. Only the range of initial allocation, and possible stair step increases to the maximum allocations need to be analyzed. Clarify the objective of Element 9, Entry level PSR program allocation, and why is this program not developed for other species. Defer its design to trailing amendment.

- c. *supported by scoping comments*: there were no comments in support of this element.
- f. *streamline the analysis*: the details of such a program is not essential for the design of a rationalization program and could be deferred to a trailing amendment; only the initial allocation is necessary at the time of final action of the overall alternatives.

Element 10. Non-FMP and non-target species

This element is intended to identify how species that are not included in the rationalization program would be managed.

- a. *difficult to analyze due to data limitations*: there is very little data and descriptive biological information on most non-target and non-FMP species
- b. *limited insights or flexibility relative to work required to analyze (bang for the buck)*: a separate analysis has been initiated to revise management of all non-target groundfish
- c. *supported by scoping comments*: Several written comments noted that allocating non-FMP or non-target species was probably not appropriate at this time. Several written comments noted that hard caps on PSC species could create a “race for bycatch” if those caps were constraining on a fleetside basis. Other individuals noted that cooperative management could address these concerns through inter-cooperative arrangements.
- d. *administrative requirements and/or legal concerns*: revising management of these species will be a major analytical task for staff and managers to develop non-quota-based management measures to more optimally manage these species.
- f. *streamline the analysis*: the details of such a program is not essential for the design of a rationalization program and should be deferred to a separate plan amendment; staff already plans to address GOA and BSAI rockfish in 2003.

Element 11. Skipper/Crew and Second Generation

To protect their historical interests in the fisheries, eligible skippers would be allocated between 3 and 20% of the TAC under this element. Most of the options under this element were definitional in nature. Streamlining reduced the number of options from 12 to three. The remaining options are reviewed below.

- c. *supported by scoping comments*: There was some support for skipper and crew shares, particularly in oral comments received during the Sand Point and King Cove meetings, and to a lesser extent during meetings in Kodiak and Homer. While these comments did not offer specific suggestions on how much of an allocation should be provided to skipper and crew, several of the commenters suggested that some allocation was appropriate.
- e. *further clarification*: the Council should add options for crew shares to retain this element; the Council may wish to adjust the range of the allocation if crew shares are dropped.
- f. *streamline the analysis*: drop allocation to crew; restructure options as suggested by staff

Element 12. Regionalization

Among the options proposed for analysis are measures that would assist or protect small communities from adverse economic effects of the proposed GOA groundfish rationalization program. The MSA defines “fishing community” as a community which is substantially dependent on or substantially engaged in the harvest and processing of fishery resources to meet social and economic needs; vessel owners, operators, crew members, and processors based in such a community are included (Sec.3 [16]). The NRC notes that one aspect of this definition includes specific, contiguous geographic locations where fishermen or those associated with the fishing industry live and work. The NRC report *Sharing the Fish* (1999a) relates that the existence of such a community of interest is important in the discussion of co-management and involvement of stakeholders in the management process, and that the fishing community is relevant to the potential achievement of objectives or assessment of impacts for specific fishery management programs.

Essentially, quota shares held by communities operate as individually held IFQ, however, the recipient is defined as a specific group of people. In the North Pacific, the most familiar example of this concept is the Western Alaska CDQ Program which allocates a percentage of groundfish, crab, and halibut resources in the BSAI to six regional groups representing 65 western Alaska coastal communities. Quota held by these organizations is either leased to community residents—typically for traditionally harvested species such as halibut—or to other vessels that harvest the quota on behalf of the regional community organizations (NRC 1999b). There is not a specific allocation to each community, but to entities representing self-organized groups of communities. Fundamentally, a community quota share is a redefinition of what constitutes an eligible quota share holder under an IFQ or rights-based management program.

Allocations to communities may address some social considerations that may not be accomplished through the typical patterns of allocating IFQs to individual vessels or vessel operators. Generally, a “community” has been interpreted as a group of people living in a specific geographic location. The MSA defines the term “fishing community” as a community “which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such a community.” Some have suggested a community could also consist of a “virtual community” where fishermen hold collective and common property interests in a fishery, but do not necessarily reside in a shared fixed location (Munro et al., 1998). That interpretation of a “community” has not been used by the Council in its consideration of community quotas. Allocations of quota to communities could serve to meet concerns about employment in rural regions, maintain existing harvest and processing patterns, or to address social concerns such as providing for a continuing access to a resource that has been important for cultural or subsistence reasons.

The Council is considering inclusion of proposals for regionalization program(s) as a part of its preferred alternative for rationalizing the GOA groundfish fisheries. It would need to define what constitutes a community eligible for quota share, what type of allocation to protect communities from the disruption of the current pattern of landings and processing that might be caused by changing the management of the fisheries. Completely constraining the geographic movement of activities would likely overly restrict consolidation of activities that might be desirable for reducing capacity and gaining efficiency in both the harvesting and processing sectors under rationalization. The regionalization program that the Council adopted for crab only divides the fishery into two regions, allowing movement of activities within each region. The limited restraint on consolidation is intended to balance community interests against the need for consolidation and efficiency that motivated the change to a rationalized fishery.

The elements and options currently contain a regionalization option, as well as other options under other elements intended to *protect* communities. If adopted these provisions would be intended to protect and grant benefits to individual communities (as opposed to regions) under the program. Other options would allocate QS to community entities to be held in trust for individual harvesters (and processors), individual

communities, or groups of communities to *develop or enhance* the stability of the economies of certain coastal communities.

The Council may wish to distinguish between the goals of protection and enhancement at the outset of the analysis; however, it should recognize, as it did with the halibut charter IFQ program, that if it intends to allocate a percentage of QS to a community, it must make that allocation *percentage* decision at the time of initial allocation. Deferring the set aside decision until a trailing amendment would necessitate reopening the initial allocation debate.

Four options for the regionalization element under Element 10 of Alternatives 3, 4, and 5 for a quota-share based rationalization program for GOA groundfish fisheries are described in 8 pages of elements and options. These measures intended to provide increased economic stability to coastal communities are: (1) Regionalization of harvest/processing shares; (2) Community Incentive Fisheries Trusts (CIFTs) of harvest/processing shares; (3) Community Fisheries Quotas (CFQs); and, (4) Territorial Use Rights in Fisheries (TURFs).

Previously, the Council has considered mitigating the potential effects of rationalization programs on communities. In the halibut and sablefish IFQ program, this has been done indirectly by modifying the initial allocation process to consider certain groups of individuals that tend to reside in fishery dependent communities. In 2002, the Council recommended modifying ownership eligibility in the halibut and sablefish IFQ program to allow non-profit entities representing communities to hold QS and lease IFQ to community residents (GOA Groundfish FMP Amendment 66).

The preferred alternative in the Bering Sea crab rationalization program would create a “3-pie” QS system whereby BSAI crab harvesters and processors would receive QS reflecting their past fishing or processing histories. The third piece of the pie would be measures for the communities that would create economic benefits or access to their own shares, restore economies or provide compensation for communities that were harmed by harvester and processor shares should share holders reduce their activity in the community. regionalization was intended to protect communities from changes in the location of processing activities that could occur in a rationalized fishery. Essentially, harvester and processor QS and IFQs/IPQs would be categorized by region. Harvests made with an IFQ would be required to be delivered to a processor in its designated region. Similarly, groundfish processed under an IPQ would be required to be processed in its designated region. From the crab rationalization discussions, the Council has learned that regionalization (alone) may not fully address the concerns expressed by dependent communities. For example, is it realistic that the Council might allocate up to 40% of the entire groundfish QS to a community or communities under the proposed CIFT program? Are harvesters and processors with recent, individual history going to support this? Given the five pages of details regarding how CIFTs would potentially be allocated/managed, is this a realistic option to manage and effectively enforce? Also, what do TURFs really accomplish, particularly relative to the problem statement? Could TURFs be implemented in combination with other alternatives? Is this really a viable alternative? Is it even effective, since it does not appear to allocate any groundfish to local residents; it merely closes off certain local waters to non-residents. Additional questions about the effectiveness of these proposed program are discussed below.

While the MSA gives broad authority for instituting community protection measures, this is not *carte blanche* authority to consider every conceivable alternative. National standards that reflect competing goals against community protection must be balanced against the measures. Further, a significant difficulty will still be in creating a sufficient record to show a rational basis for the measure. These considerations reduce the available field of protection measures. The connection of a measure to management goals is strengthened if there is particular Congressional authorization for the measure. If a measure is particularly controversial, specific Congressional authorization for the measure would significantly reduce the risk of successful challenge to it in a court.

The analysts, Council, and public would benefit from a more focused approach in addressing regionalization concerns; i.e., the Council should narrow the scope of these alternatives early in the process, prior to extensive, formal analysis, to enhance our collective energy and public input. To do that, the Council should define its goal. Is it to preserve community participation, or enhance it? Council objectives are to “protect (communities) from losing the relative value of their existing investments” and “provide opportunities for coastal communities to benefit from rationalization programs.” What does the latter actually mean, and is it consistent with the former? The Council should consider revising the problem statement to address the goals of the proposed action for community protection considering comments received through public scoping as well as this review.

Options 1-4 address concerns about community development by modifying delivery patterns or allocating quota or processing quota directly to communities or to organizations that represent the interests of those communities. Option 1 (Regionalization) addresses protection of coastal communities by stabilizing processing deliveries. Options 2-4 (CIFS, TURFS, and CFQs) appear more intended to develop or enhance coastal communities by deferring more control of harvesting and processing to them.

The Council may wish to distinguish between the goals of protection (Option 1) and enhancement (Options 2-4) at the outset of the analysis; however, it should recognize, as it did with the halibut charter IFQ program, that if it intends to allocate a percentage of QS to a community, it must make that allocation *percentage* decision at the time of final Council action for the initial allocation. Deferring the set aside decision until a trailing amendment would necessitate reopening the initial allocation debate.

Before addressing the details of the proposed regionalization programs, information on the number of GOA communities with *fewer than 5,000 residents that have processed at least 500 mt of groundfish during each year* of the qualifying period (1995-2002) was requested by the Council to provide relevant information of the extent to which the regionalization programs might be needed. Only 1995-2000 processed landings were examined because of data availability. Only **Sand Point** and **King Cove** meet the above criteria (data is confidential and can not be tabulated at the level of detail outlined by the Council). Ten² communities would meet the criteria if processed landings are averaged for the 6-year period. But, there are five additional communities that would be included under more liberal criteria - Cordova, Hoonah, Petersburg, Seward, and Yakutat. Homer (1996-2000), Chignik (1997, 1999-2000), and Nikiski (1997-99) had lower and more sporadic landings.

GOA communities that meet possible eligibility criteria

Chignik	Nikiski
Cordova	Petersburg
Homer	Sand Point
Hoonah	Seward
King Cove	Yakutat

Option 1: Regionalization

Regionalization would establish regional areas in the GOA. The amount of fish that has been historically processed within those regions would have to be processed within those regions in the future and there would not be transfers between regions. North and south boundaries are proposed for Central GOA flatfish, Pacific ocean perch, combined northern rockfish and Pelagic shelf rockfish, Pacific cod, trawl sablefish, and West Yakutat pollock (an internal inconsistency occurs when later the proposal states that underutilized species would not be subject to regionalization and flatfish is listed as an underutilized species under Element 8.

²while Adak is not a GOA coastal community, it also would meet the more liberal landings criteria (landings in only 1999 and 2002 averaged for the 6-year period); it might be included in the list because of past considerations given the community by the Council in the development of other community enhancement programs

- a. *difficult to analyze due to data limitations*: Compiling harvest/processing information by proposed regions, *based on where fish was processed*, is not overly difficult.
- b. *limited insights or flexibility relative to work required to analyze (bang for the buck)*: Data compilation by region may be unnecessarily confusing, if crux of decision is irrelevant of *amounts* delivered to each region. May be able to establish option 3 (under Western Gulf) up front if goal is to *preserve* individual community history, as finer resolution of regions will offer greatest preservation of community activity within each region. Options for qualifying years could also be narrowed; for example, most appropriate basis may be qualifying years selected for QS allocations, without going through all of the different calculations for each option (multiplied by the number of region options). Also, bycatch harvests could complicate landings requirements.
- c. *supported by scoping comments*: limited support for regionalization options that allocated QS directly to communities; there was some support for regional landing requirements, particularly in Kodiak, and to some extent in Cordova. Many of the comments supporting rationalization indicated that the reason for doing so cited regionalization as a mechanism to address concerns about landings in various communities. One written comment noted that regionalization alone may not be sufficient to address the concerns of specific communities.
- d. *administrative requirements and/or legal concerns*: As with crab rationalization, the MSA may need to be amended to allow regionalization requirements. NMFS would have to “tag” QS issued for a specific region to track processing, and identify the QS for each species, perhaps as well. For example, QS would be issued for north and south CGOA Pacific cod. Presumably, CGOA Pacific cod QS would be issued in proportion to the amount of cod processed in the north or south regions based on the qualifying period selected. In this example, QS would be “tagged” for the proportion of Pacific cod in each region (WGOA, CGOA) that was processed in the CGOA during the years selected if all GOA Pacific cod was regionalized only in the CG. The Council could also choose to recommend some processing of regional QS outside of that region under certain conditions (e.g., processing plant closes, stops operation). The set of qualifying years for regionalization should match the QS allocation required for “tagging” QS to avoid the potential mismatch between initial allocation of QS and delivery patterns during a different qualifying period.

The designation of regional QS would probably have to be at the individual level because monitoring and enforcing a fleetwide processing requirement would be difficult and possibly unenforceable. Fleetwide reports are not available on a real-time basis, and it is not clear how an individual vessel or fleet could be held accountable for exceeding a fleetwide regional delivery requirement.

- f. *ways to streamline the analysis*: as noted above, reducing the number of options for regions, and number of options for qualifying years, would streamline analysis and simplify decision points.

Options 2 -4

The following three proposals would allocate some percentage of (harvester/processor) QS to specific community entities. These proposals share certain administrative requirements, including: (1) defining eligible communities and/or community representatives; and (2) providing due process (Administrative Procedures Act requirements) for communities or individuals to appeal. These general administrative requirements will be addressed under the specific proposals below.

Issue 2: Community Incentive Fisheries Trust

The CIFT proposal would allocate a percentage of the total QS issued to persons to a non-profit entity that would hold QS in trust for regional CIFTs. The CIFT would reallocate IFQ to qualified persons under contractual terms established by the CIFT and the person. Each CIFT would be comprised of a group of stakeholders including processors, community representatives, crew. Other stakeholders could be selected by this group of stakeholders. The CIFT would collect fees to cover administration, establish allocation

procedures and criteria to distribute IFQ, provide for dispute resolution mechanisms, and submit oversight reports. As stated in the proposal, the amount of social engineering in rationalizing fisheries, and inherent in this proposal, is difficult to forecast and implement. The Council would be deferring its allocation authority to an entity or entities without designing the “incentives” that would direct the release of QS held by the CIFT(s). The Council or NMFS would need to determine a set of criteria upon which the IFQs associated with the community QS will be distributed to harvesters (i.e., contract requirements), and standardize those requirements across all CIFTs. A higher degree of administrative oversight would be required for reviewing and adjudicating appeals of the allocations of IFQs associated with the community QS to harvesters. The proposal references social engineering without identifying the types of incentives intended to be included in the contracts. Clarification of the contract requirements would be needed before proceeding with analysis.

- a. *data limitations*: basic allocation issue is relatively easy to analyze - simply will inform how much QS goes to each potential CIFT region. Analysis of this options would be more qualitative than quantitative.
- b. *limited insights or flexibility relative to work required to analyze (bang for the buck)*: Any attempt to analyze the current suite of administrative aspects, by definition, will provide limited insights. See item (f) below for suggestions on areas where streamlining could be accomplished.
- c. *scoping comments*: limited support for regionalization options
- d. *administrative requirements and/or legal concerns*: Aspects of subsequent administration, including how much QS will potentially be allocated to existing QS holders, is impossible to analyze. This option poses a daunting suite of ill-defined administrative issues, including but not limited to: *specifics of contract requirements* which determine CIFT allocations; governing body and reports to State and Council; appeals process; determination of who are ‘stakeholders’ in various sectors; election of stakeholder representatives for governing body; nominations for ‘other’ stakeholder representative; CIFT bylaws and fee assessment process; the allocation procedure itself; debt retirement and amortization; and transferability provisions. Legal issues likely arise from these administrative aspects.

More specifically, extensive new regulations would be required to implement all aspects of the program. There are 11 suboptions and the implementation requirements for each extends beyond the scope of this discussion paper. Generally, the main administrative requirements that would have to be met include:

- Reviewing bylaws and certifying the formation of the CIFT
 - Establishing and monitoring criteria for who would be qualified to serve on behalf of each of the stakeholder groups to mitigate conflicts among or within groups.
 - Monitoring and oversight of the fee collection system administered by the CIFT.
 - Providing an administrative appeals process for disputes concerning the issuance of IFQ.
 - Review of annual IFQ distribution recommendations from the CIFT and authorization for issuing IFQ only to approved parties.
 - Mechanism for withholding IFQ for persons not meeting CIFT contractual requirements.
 - Integrating State of Alaska oversight with NMFS oversight and allocation approval procedures.
- Although this approach presumes that the CIFT will be responsible for a significant portion of the daily oversight of IFQ administration, NMFS will need to provide oversight, monitoring, and an opportunity for appeals to the allocation decisions made by the CIFT. Depending on the number of transfers and the appeals that occur annually, this could be a substantial obligation. Although not an administrative requirement, the number of contracts that would need to be established and the degree of interaction with NMFS, the CIFT may have to impose a substantial fee on IFQ recipients to meet its administrative costs given the range of participants and factors that each CIFT would have to monitor.
- e. *further clarification*: (1) clarification that this applies only to harvester (not processor or catcher processor) QS (there is a suboption for CP-based CIFTs); (2) definition of contract requirements will be critical to analyzing potential impacts of CIFTs - if all QS holders satisfy contract requirements, and then QS is issued proportionally, then the result would be exactly the same as a straight QS allocation based on history, without all of the administrative burden posed by the CIFT structure. On the other hand, contract requirements could dramatically alter the distribution, depending on what they are, and what the

total CIFT set aside percentage. Without further definition of contract requirements, this proposal will be impossible to analyze in any meaningful manner. **Given the administrative complexity of this alternative, the difficulty in analyses, and the stated objectives for community protection, it is questionable whether this alternative warrants further consideration, beyond a simple, qualitative discussion.**

- f. *ways to streamline the analysis*: (1) determine whether the 10-40% range is realistic, or can it be narrowed; (2) determine criteria for 'large' and 'small' communities up front, as it is unlikely that any analyses will help in this determination; (3) determine crew criteria up front for same reason; (4) determine number of CIFT regions up front for same reason; (5) narrow fee assessment options.

Issue 3: Community Fisheries Quota

The CFQ proposal would allocate QS representing a percentage of the total TAC by species, or the value of the product, to administrative entities representing a group of eligible communities. These entities could then lease the resulting IFQ to community residents or other eligible entities. Revenue generated from the lease could then be used for specific purposes. The CFQ and CIFT programs purport to achieve the same goal of economic incentive for local communities. The CFQ program appears to be a more simple approach, with less administrative burden in terms of administrative oversight of the contracts and appeals for adjudication. In both programs, the Council or NMFS will need to determine a set of criteria upon which the IFQs associated with the community QS will be distributed to harvesters.

- a. *difficult to analyze due to data limitations*: Determining what is a 'fisheries dependent community' vs a 'fisheries supplemented community' will be difficult, even if a threshold criteria were established. Analysis of this options would be more qualitative than quantitative.
- b. *limited insights or flexibility relative to work required to analyze (bang for the buck)*: Suboption 4 - Allocation, suboption 2 suggests an annual value of product as the basis for allocation. It needs to be clarified whether this would be an allocation of money, or an allocation of QS based on some monetary equivalent. If the latter, it will be extremely difficult to analyze (and extremely difficult, and unnecessarily cumbersome, to implement).
- c. *scoping comments*: limited support for regionalization options that allocated QS directly to communities; there was some support for regional landing requirements, particularly in Kodiak, and to some extent in Cordova.
- d. *administrative requirements and/or legal concerns*: Basically this alternative as written is effectively the same as the Western Alaska CDQ program. A previous legal opinion indicated such a program in the Gulf indicated is legal, as long as it is not an expansion of the Western Alaska program. In some respects, this proposal is similar to that in GOA Groundfish FMP Amendment 66, which extended the right to hold halibut and sablefish QS to non-profit entities representing eligible communities. Similar administrative concerns may apply to this proposal as well:
 - Establishing a measure and enforceable definition of fishery dependence (Suboption 2).
 - Establishing a method for allocating QS among individual communities
 - Determining "historical" participation (Suboption 3)
 - Determining an allocation based on fluctuating measures of ex-vessel values (Suboption 4).
 - Defining a resident for purposes of receiving IFQs (Suboption 5)
 - Measuring and enforcing the use of revenues derived from the lease of IFQ (Suboption 6)
 During deliberations on Amendment 66, NMFS staff raised concerns about the ability to monitor and enforce requirements that limit sale. Enforcement could involve limiting transfers of IFQ and would involve determining whether the sale met the limits recommended by the Council. This determination could prove difficult given the broad range of acceptable uses, and NMFS staff recommended eliminating this requirement.
- f. *streamline the analysis*: delete option for allocation of an annual product value.

Issue 4: Territorial Use Rights in Fisheries

The TURF proposal allocate exclusive use rights within certain geographic boundaries to residents of TURF communities. These rights would be allocated to a non-profit entity that represents the community. The proposal could limit who may harvest from the TURF areas and could limit the use of associated revenues. NOAA General Counsel will provide additional guidance concerning legal issues that could result from allocating QS based solely on residency.

- a. *difficult to analyze due to data limitations*: as in Option 3, ‘fishery dependent’ vs ‘fishery supplemented’ needs to be defined. Even with clarification, this will be difficult to quantify with precision. Analysis of this options would be more qualitative than quantitative.
- b. *limited insights or flexibility relative to work required to analyze (bang for the buck)*: see (f) below.
- c. *supported by scoping comments*: limited support for regionalization options
- d. *administrative requirements and/or legal concerns*: Administrative requirements appear far less daunting than CFTs, but still are not fully specified in terms of management/administration. If QS allocations are involved (see (d) below), need more specificity.
Issues particular to this proposal include:
 - Defining geographic boundaries for the TURFs and resolving possible conflicts arising from overlapping boundaries.
 - Determining QS allocation (if included) to communities based on geographic boundaries of the TURF – it is not clear that existing reporting systems can accurately describe the amount of harvests within finer scale geographic areas.
 - Defining “co-management” of resources and addressing possible monitoring, enforcement, and appeals procedures with the establishment of “co-management” or “community management” (Suboption 5).
 - Creating mechanisms to monitor and exclude other fishery operations within the jurisdiction of the TURF or limiting those operations (Suboption 6).
- e. *further clarification*: TURFs appear to restrict fishing opportunity in a geographic area to specified individuals. Yet, a phrase speaks to the legality of allocating QS based solely on residency. Are QS allocations associated with TURFs, and if so, it is unclear how this would work in conjunction with geographic limitations and are not specifically mentioned in the proposal. As submitted, the TURF proposal appears to better address issues related to localized depletion than rationalization of groundfish fisheries
- f. *streamline the analysis*: Issue of ‘who can harvest in a TURF (only resident vessel owners vs any resident vs no limitations) could be determined up front, as analysis is unlikely to shed additional light on this aspect.

Element 14. Review and Evaluation

Given the novelty of the program, the Council is acutely sensitive to the need for monitoring the program’s success. Under the program, NMFS Restricted Access Management in conjunction with the State of Alaska would be directed to produce annual reports concerning the program and a preliminary report on the program at three years. A full review of the program would be undertaken at the first Council meeting in the fifth year after implementation of the program. This fifth year review would be intended to objectively measure the success of the program in addressing the concerns and achieving the goals and objectives specified in the Council’s problem statement and the Magnuson-Stevens Act standards. Impacts of the program on vessel owners, captains, crew, processors, and communities would be examined. The review would include an assessment of options to mitigate negative impacts of the program. Additional reviews would be conducted every five years. Element 14 required only minor streamlining.

- c. *supported by scoping comments*: Many of the comments supporting rationalization indicated that the reason for doing so cited regionalization as a mechanism to address concerns about landings in various

communities. One written comment noted that regionalization alone may not be sufficient to address the concerns of specific communities.

Element 15. Sideboards to Protect Participants in Other Fisheries

Rationalization would provide the opportunity for fishing and processing firms to consolidate their operations, whether or not they directly receive QS. As firms consolidate, some assets may be freed up to participate in new fishing or processing activities or they may increase their levels of participation in fisheries outside the program. Some participants may sell or lease their shares. Other participants could change the timing of their fishing. In either case, rationalization could allow participants to increase participation in other fisheries. To protect participants in these other fisheries, the Council could evaluate sideboards in a trailing amendment package, as it did with BSAI crab, or it could identify options for analysis. The GOA work Group did not provide recommendations for options under this element.

- c. *supported by scoping comments*: Generally, there was strong support for sideboard measures, particularly in those fisheries that may not be rationalized. This concern was raised during the Petersburg public hearing and in several written comments. Commenters at the Sand Point and King Cove hearing who did not support rationalization noted that if rationalization occurs in certain regions of the GOA then well-established sideboards would need to be put into place to address these concerns. These commenters noted the fact that “rationalized” vessels in the AFA were able to meet their sideboard limits consistently. Other oral commenters at the Seattle hearing and several written comments noted that rationalization, in effect, served as its own sideboard since all fisheries would be effectively “sideboarded.”
- e. *further clarification*: no options have been defined for this element; defer to trailing amendment
- f. *streamline the analysis*: defer to trailing amendment

Element 16. Fee and Loan Programs

This element required only minor streamlining. This element could be deferred to a trailing amendment.

Element 17. Monitoring and Enforcement

Seasons in most fisheries would be extended under a rationalized management program. The monitoring program in the fisheries would be adapted to address potential changes in fishing practices and improve knowledge of stocks permitted in a slower paced fishery. High grading (or the retention of only the highest value catch) can occur when the benefit of discarding low value catch and replacing it with higher value catch exceeds the cost of reharvesting. Rationalization would remove the time pressures of a derby fishery, which could increase the incentives to high grade, since harvesters would not sacrifice a share of the fishery when discarding catch. Additional monitoring would be necessary to determine the potential for high grading and to enforce regulations developed to minimize detrimental impacts of changes in fishing practices on stocks. Vessel Monitoring Systems and increased observer coverage and shore side monitoring are under consideration. Additional onboard observer coverage and dockside sampling are needed to determine if changes in fishery selectivity occur.

Enforcement will need to be prepared for an increase in dockside enforcement. Accurate debiting of accounts is essential for the integrity of this program. Currently, the Alaska Enforcement Division has 19 special agents and enforcement officers in 8 ports to enforce a variety of regulations, which includes those promulgated under the MSA, the Marine Mammal Protection Act, Endangered Species Act, Halibut Act, and Lacey Act. In 2002, the Alaska Enforcement Division monitored less than 2% of the IFQ halibut offloaded in Alaska. With quota for groundfish, the enforcement effort would be spread even thinner. **To provide adequate coverage, enforcement staffing and funding would need to be increased.**

Another essential tool now available to enforcement is Vessel Monitoring Systems (VMS). Assuming rationalization will result in quota being issued for specific management areas, VMS provides the remote monitoring needed to improve compliance. In addition, VMS should be considered as an alternate to the prior notice of landing and the departure report requirements currently used in the halibut and sablefish IFQ fishery. Costs for VMS units is approximately \$2,000 per unit, with a \$300 to \$500 installation fee. There are new vendors entering the market who may offer their units at a lower price and with two-way communication options. **VMS may reduce the need for other regulatory controls, and improve recordkeeping and reporting requirements.**

The Council approved the development of a mandatory data collection system as part of their overall Crab Rationalization Program. An inter-agency workgroup has developed the following recommendations for the crab rationalization program and might be adapted for GOA groundfish.

1. Statutes be changed to require (or at a minimum allow) NMFS and the NPFMC to collect these data from fish harvesters and processors. Implementing the proposed crab program would require changes to the MSA and other laws governing the collection of data from fishermen and processors. Changes to the MSA would be required in Section 303(b)(7) and Section 402(a). Section 303(b)(7) prohibits the Council and NMFS from collecting economic data from fish processors. Section 402(a) prohibits the Council from requesting that the Secretary implement an information collection program for the fishery which would provide the types of “information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations”. Because other laws may also prohibit the Council and NMFS from collecting these data, it may be appropriate to include a general statement that the authority and requirement to collect these data would supercede other Federal laws that may be in conflict.
2. Requirement to collect these data should also include a time certain start date when the data collection would commence. Providing a time certain start date for the collection of these data would help to ensure that the program is implemented quickly. The goal of the program is to gather the data necessary to provide an understanding of how crab rationalization changed the fishery and the impacts it has had on the participants. To accomplish this goal a time series of data that starts well prior to the implementation of the program is needed. Starting the program as soon as possible would help meet this objective.
3. The requirement to collect historic data should be included in the legislation. Currently NMFS and the Council are unable to require the submission of data related to the activity of harvesters and processors in previous years. The authority and requirement to collect these data would provide the information needed to better understand the pre-rationalization fishery. Requiring that the data are submitted would also help to protect the confidentiality of the data.
4. Authority to protect the confidential data from forced public release should be included in the legislation. To provide persons supplying these data with an assurance that these data would be held as confidential, strong protections on their release need to be implemented. Members of industry have expressed concern that the sensitive data being requested might be released to persons³ who were not initially intended to access the data. Alleviating these concerns is an important part of developing the data collection program. Authority to protect these data from forced release once collected by NMFS and the Council would help reduce the concerns of industry. Well defined limits on the release of the data could also help the agencies in developing their data sharing agreement.

Element 17 recognizes that data reporting, monitoring and enforcement are critical issues to the success of any management program. These elements will be identified by agency staff in the analysis of each element and a separate element is not necessary for analysis. Therefore, staff recommends that this element may be dropped as a specific element for analysis.

³ Persons other than the staffs of federal and state agencies directly involved in the management of the fisheries under the Council’s authority and their contractors.

Public comments during the public scoping meeting recommended reviewing the payment structure in the observer program and possible changes in the coverage requirements that may be required. In particular, there was a suggestion for implementing spreading observer costs more evenly across the fleet.

Alternative 3. Subalternative 2, QS-based Program with Fishing Cooperatives

QS programs have proven controversial due to the complexities of implementing and allocating quota shares. Some rationalization programs have addressed these concerns through private contractual arrangements in the form of cooperatives. Some of the potential controversies of initial allocation may be reduced because the benefits under cooperative arrangements negotiated by private parties. Cooperative management programs include the offshore Pacific whiting fishery under the jurisdiction of the Pacific Fishery Management Council, cooperatives formed under the American Fisheries Act in the North Pacific BSAI pollock fishery; a voluntary cooperative formed by vessels in the North Pacific scallop fishery, a voluntary Alaska Board of Fisheries Chignik salmon cooperative, and a proposed three-pie voluntary cooperative/QS program for BSAI crab fisheries.

In the case of both the Pacific whiting cooperative and the AFA, a defined set of fishery participants received a fixed allocation of fishery resources. The Pacific whiting fishery allocation was to a relatively small number of vessels participating in the catcher/processor “offshore” fishery. An allocation was made to a small well-defined group of participants (four companies) which then allocated individual harvest privileges among its members privately without a specific individual allocation by the Pacific Council.

The *pollock* cooperatives organized under the AFA differ from the whiting cooperative in that allocations were made to three sectors: an “offshore sector” consisting of catcher/processors, motherships, and an “inshore sector” comprised of vessels delivering to inshore processing plants. In the catcher/processor and mothership sector the allocations are made at the sector level and individual companies or vessels negotiate the division of profits and obligations contractually. There is not a specific allocation to an individual vessel. For the inshore sector, the AFA allocated quota share to vessels within a cooperatives organized around a fixed number of processing plants. Essentially, the vessels in the inshore cooperatives are allocated quota which could be used in private contractual arrangements only when the cooperative forms according to specific criteria set out in the AFA including delivery obligations, and limits on processing by a given entity. These criteria limit the nature and range of the private contractual agreements that may occur within the cooperative. This requirement sought to address concerns raised by processors that the formation of cooperatives would economically disadvantage them during price negotiations unless they received compensation through a restricted processing class. Pollock harvesters have effectively coordinated harvests so that less of than 1 percent of the TAC is unharvested.

The North Pacific *scallop* fleet formed a cooperative after the implementation of a scallop LLP. Due to the relatively small number of participants, vessel owners decided to form a voluntary cooperative. It was formed under the Fishermen’s Cooperative Act of 1934. Unlike the Pacific whiting and the AFA cooperatives, there is no allocation to a specific sector. It is strictly a voluntary private agreement.

The proposed *BSAI crab* rationalization program would permit harvesters to form voluntary cooperatives associated with one or more processors holding processor QS. Cooperatives would facilitate efficiency in the harvest sector by coordinating harvest activities among members and deliveries to processors. This subalternative most closely matches the Council's preferred alternative for the Bering Sea crab fisheries, whereby the rationalization program is QS-based overlain with a voluntary cooperative.

Staff has recommended minor edits on the added option for QS-based fishing cooperatives.

- c. *supported by scoping comments*: There were numerous oral and written comments concerning the use of cooperatives. Generally, these comments supported the use of cooperatives as a means of providing many of the benefits of IFQs without some of the potential logistical problems that may exist with the allocation of small portions of QS and its effects on individual management. As noted in several of the elements under Alternative 3, subalternative 1, commenters, in particular from the C/P fleet noted that cooperative management of PSC or bycatch species could be more effective than IFQ-based management.

Alternative 4. Harvester QS Program with Closed Class of Processors, Subalternative 1. QS Program

This proposed quota-based program includes all of the elements and options that are included under Alternative 3 sub-alternative 1 for harvester allocations. Only the elements and options that apply to creating a closed class of processors distinguishes these two alternatives. The incorporation of a closed class of processors is expected to be similar to the implementation of a closed class of processors under the AFA, whereby groundfish deliveries would be limited to identified processors. Since the Council does not have the authority to restrict which (shorebased) plants may take deliveries, Congress would need to grant that authority.

The same 17 elements under Alternative 3, Subalternative 1 are included here, with the same staff and CP sector comments. Two new elements related to the closed class of processors are also included for the CV sector only. The Council may wish to add elements for the CP sector, if appropriate.

Element 1.	Management Areas
Element 2.	Gear
Element 3.	Qualifying periods
Element 4.	Qualifying landing criteria
Element 5.	Target Species Rationalization Plan
Element 6.	Bycatch Species
Element 7.	PSC Species
Element 8.	Underutilized species
Element 9.	Entry level rockfish program
Element 10.	Non-FMP and non-target species
Element 11.	Skipper/Crew and Second Generation
Element 12.	Communities
Element 13.	Habitat
Element 14.	Review and Evaluation
Element 15.	Sideboards
Element 16.	Fee and Loan
Element 17.	Monitoring and Enforcement
Element 18.	Harvester Delivery requirements
Element 19.	Closed Class Processor Qualifications

Staff recommends adding suboptions to Element 19, Option 1 for combined trawl and fixed gear landings qualification for the closed class of processors. It fills the void for qualification criteria as a fixed and trawl qualified processor either by using the double criteria or using a higher qualification criteria for both. This change would allow smaller processors also to be eligible for the closed class.

- c. *supported by scoping comments*: Several public commenters expressed concern about the potential effects of limiting processors, particularly for some of the smaller processing operations. A number of individuals, particularly at the Anchorage public hearing expressed concerns that limiting processing licenses would undermine the ability to develop small markets even if some limited processing were allowed due to the competitive advantage that limited processors might have. Other comments received during the public hearings noted that limiting processors could be one mechanism to address concerns about the possible adverse effects of distributing QS to harvesters.
- e. *further clarification*: Clarify the goal of the following Element 19 options:
1. Option 2, as it appears to be a community protection measure.
 2. Option 3, Suboption 2; this suboption could cover a situation where a city owns the building, but a fishing company operates it - who get the QS?
 3. Option 5, Suboptions 3 and 4; delete Suboption 4 is addressed under vertical integration options; Suboptions 3 then becomes a statement unless another suboption is added for processing use caps

Alternative 4. Harvester QS Program with Closed Class of Processors, Subalternative 2, Fishing Cooperative

The same 17 elements under Alternative 3, Subalternative 2, Options 1 (Voluntary Cooperative) and 2 (Mandatory Cooperative) are included here, with the same staff and CP sector comments. One new element related to the closed class of processors is included, but it is not clear if this applies to both the CV and CP sectors. If not, the Council may wish to add elements for the CP sector, if appropriate. The staff has no additional recommendations on the new element.

e. further clarification: does Element 18 apply to CPs?

Alternative 5. Harvester and Processor QS Program, Subalternative 1, Voluntary Cooperative

This third rationalization alternative includes all of the elements and options that are included under Alternative 3 for harvester allocations. Only elements and options appropriate for allocating QS to processors distinguishes these alternatives (Alternative assumes the rationalization program is a QS program and not just based on shares). Alternative 5 would create a processing privilege allocated to processors that is analogous to the harvest privilege allocated to harvesters.

Early in the discussions of the CRP, processors expressed concerns about the potential impact of IFQs on processors (e.g., Plesha, 1993). During its review of IFQs, the NRC noted that just as the harvesting sector is overcapitalized in some fisheries, so too is the processing sector. Some processors have commented that they have been adversely affected by the introduction of an IFQ program or would be harmed by potential programs. Others benefitted or were not greatly affected. Adversely affected processors assert that harvester-only IFQs may result in stranded capital, lower profitability, and significant impacts on isolated rural communities. These consequences would result from the fishery becoming more efficient, shifts in the timing of deliveries, and harvesters gaining bargaining power in relation to processors over ex-vessel prices (NRC 1999a).

These concerns have prompted interest in the creation of processor-quota shares which would be linked to the issuance of IFQs to harvesters. This linked IFQ and processor quota share is colloquially known as the “two-pie” system. The allocation of specific processing rights would provide a form of compensation to the potential adverse effects of shifts in market power or fishery practices that could occur under a harvester-based quota program. Unlike an IFQ which directly regulates the amount of harvest of the fishery resource by an individual, processor QS regulate the post-harvest use of the fishery resource, rather than directly regulating the publicly managed resource. The NRC notes that “on a national basis, the committee found no compelling reason to recommend the inclusion *or* exclusion of processors from eligibility to receive initial quota shares. Nor did the committee find a compelling reason to establish a separate, complementary processor quota system (the “two-pie” system) (NRC 1999a).”

The potential use and implementation of processor QS has been controversial. Unlike IFQs, there are no examples of two-pie fisheries available for analysis. Some have argued that the issuance of processor QS effectively corrects economic inequities that could be created with the issuance of IFQs to harvesters and effectively recognizes the capital investment of processing firms. Others argue that processor QS are not necessary given their perceived advantageous bargaining position relative to harvesters and that processors should effectively compete for product or purchase harvester IFQ if they wish to realize the benefits of rights-based management.

Allocations to processors are intended to protect processor investment in the fisheries and balance the bargaining power of processors with harvesters receiving harvest shares. Processors would be allocated processing QS in each fishery rationalized by the program. PQs would be a revocable privilege to receive

deliveries of a specific portion of the annual TAC from a fishery. PQ allocations would be based on processing history during a specified qualifying period for each fishery. A processor's allocation in a fishery would equal its share of all qualified processing in the qualifying period (i.e., pounds processed by the processor divided by pounds processed by all qualified processors). These annual allocations would be issued as Individual Processing Quotas (IPQs).

Allocations would be made to the buyer of record on Alaska Department of Fish and Game fish tickets, except if the buyer can be determined to be an entity other than the entity named on the fish ticket, by the State of Alaska Commercial Operators Annual Report, fish tax records, or other evidence of direct payments to fishermen. This rule reflects an intention to allocate shares to the entity which purchased the groundfish and funded the processing activity. Several processors have made "custom processing" arrangements with other processors, under which one entity processes groundfish on behalf of another entity. Under these arrangements, the processing activity is often funded by an entity other than the entity taking the delivery.

Processor allocations are substantially more concentrated than harvester allocations. This relative concentration occurs for two reasons. First and of most importance, there are relatively fewer processors than vessels active in the fisheries. Second and of less importance, more complete ownership information is available concerning processors. Processor allocations would be aggregated to the company level. Company ownership of facilities would be determined based on existing records with the assistance of processor representatives. As in the harvest sector, processing allocation concentration varies across fisheries.

Processor shares (both PQs and IPQs) would be transferable subject only to any restrictions. As with vertical integration caps, PQS ownership caps would be applied using a threshold rule for determining whether the shares are held by a processor and then the individual and collective rule for determining the extent of share ownership. Under the threshold rule, any entity with 10 percent or more common ownership with a processor is considered to be a part of that processor. Any direct holdings of those entities would be fully credited to the processor's holdings. Indirect holdings of those entities would be credited toward the processor's cap in proportion to the entities ownership. Initial allocations of shares above the cap would be grandfathered.

c. *supported by scoping comments*: There was generally strong opposition to the "two-pie" alternative. Most opposition centered around concerns that "two-pie" management would undermine the negotiating position of fishermen for prices, and limit the ability to develop alternative processing markets, particularly smaller value-added operations. Generally, the limited support for this alternative came from processor representatives. Opposition was strongest in Sand Point, King Cove, Homer, and Anchorage. There was a general lack of support for this alternative in Petersburg. There was limited support for a "two-pie" alternative in Kodiak, but a more general concern that processors be considered in a rationalization approach without specifying the mechanism that should be used. There was also limited support for "two-pie" management in Cordova, but only for pollock. The majority of participants in Seattle opposed the "two-pie" alternative, or expressed concern about the adequacy of past economic analyses assessing the impacts of this alternative. Others were more supportive and advocated the use of "two-pie" management as a means to incorporate the economic interests of processors.

Written comments were mixed on the use of "two-pie." Several comments noted that historical processors should be recognized either by creating a closed class of processors in a cooperative, awarding IPQ, or creating regional landing requirements. One processor opposed IPQs due to concerns about the ability of smaller processors to effectively compete with larger more well-established companies on the market. One commenter noted that rationalizing both harvesting and processing will maximize the potential value of fishery resources.

e. *further clarification*: Clarify goals for Option 10 community protection that are not achieved under Element 12.

ELEMENTS AND OPTIONS SUPPORTED BY THE BODY OF SCOPING COMMENTS

The Council received a detailed public scoping report during the December 2002 meeting (NMFS, 2002a). As noted in that document, the information gathered through public scoping can help guide the Council as they develop the scope, range of alternatives, and issues for review. Although the public scoping comments addressed various aspects of the Draft GOA Work Group elements and options directly, others were more general. There are several broad categories where there are differences in the emphasis on specific elements and options developed by the GOA Work Group and the information gathered through public scoping. Additionally, the Council should consider the guidance provided by Congress in the Consolidated Appropriations Act on 2001. Two additional management actions were raised during scoping, but are not included in the committee recommendations. Staff has earlier recommended consideration of adding an AFA-style cooperative alternative to the analysis, but cautions whether a fair start alternative sufficiently addresses the goal of comprehensive rationalization of the GOA groundfish fisheries.

1. AFA-style cooperative
2. fair start

Generally, the categories that differ between the public scoping documents, the Consolidated Appropriations Act of 2001 (P.L. 106-554), and the list of elements and options are described in the following table (Table 1). A detailed description of the public scoping comments and the Consolidated Appropriations Act of 2001 language is provided in the Public Scoping Report presented to the Council at its December 2002 meeting.

Table 1: Comparison of Draft Elements and Options, Public Scoping Comments, and the Consolidated Appropriations Act of 2001.

Elements and Options	Public Scoping Comments	Consolidated Appropriations Act of 2001
Problem Statement and Objectives:	1. Focus on ending the race for fish as the primary goal and need for proposed action. 2. Include: “timely resolution” and “compatibility with other management systems (parallel fisheries” in the objectives	N/A
Scope: All Groundfish Species in the GOA West of 140 degrees longitude	1. General support for this scope of action. 2. Several comments suggested different management measures in Western and Central Gulf. 3. Suggestion for regional TAC in the Prince William Sound Region.	N/A
LLP Modification: Alternative 2	1. Limited support for including this alternative. 2. Most commentors indicated that this alternative did not appear to address the problem statement and objectives for GOA Rationalization. 3. Suggestions from Hook-and-Line C/P sector to modify this alternative.	N/A
Owner on Board Provisions: Alternative 3, Element 5, Option 9 Various options for requiring owner-on-board	Suggestion for specific exemption by C/P fleet from this provision	N/A
Community Issues: Alternative 3, Element 10, Regionalization, CIFT, CFQ, TURF	1. Limited support for direct allocation to communities, or the establishment of separate community QS. 2. More support for the consideration of regional landing requirements. 3. Suggestion to include Groundfish Development Authority (GDA) in the analysis.	“analyze ... quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities”
Sideboard Provisions: Alternative 3, Element 12	Suggestions to establish sideboard measures to prevent shifting effort to other BSAI Groundfish fisheries, possibly through rationalization in BSAI.	N/A
“Two-Pie” Management: Alternative 5	1. Generally strong opposition to the inclusion of this alternative as contrary to the goals of rationalization. 2. Some support for this alternative from processors as meeting the goals of rationalization.	“analyze ... processor quotas... should include an economic analysis of the impact of all options on ... processors”
Cooperatives as stand-alone alternative	Strong interest by some proposers for pilot programs for cooperatives, not included under a QS-program.	“ <i>analyze...cooperatives...</i> ”
Issues not Included: “Fair-Start”	Some support to establish a “fair-start” provision in the WGOA Pacific cod fishery as separate from a rationalization alternative	N/A
Issues not Included: Tribal Allocation	Some support for allocating QS directly to tribal governments	N/A

The Council can review the scoping comments, draft list, and Appropriations Act language and further refine the proposed action, scope, and range of alternatives based on these comments. The Council and NMFS are not legally obligated to fully analyze every alternative or issue raised during the public scoping process. Legal guidance provided by NOAA GC provides further clarification of this issue (NMFS 2002b):

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NEPA was designed to apply broadly to all major Federal actions significantly affecting the human environment. Due to the wide array of Federal decisions covered, there are no rigid parameters governing the development of the proposed action or the range of alternatives to be evaluated. Instead, agencies are afforded a great deal of flexibility and discretion in delineating the proposed action and the appropriate range of alternatives. Lee v. Resor, 348 F.Supp. 389 (M.D. Fla. 1972).

Courts typically apply the “rule of reason” to the development of the EIS and “as long as the [agency’s] decision is fully informed and well-considered, it is entitled to judicial deference and a reviewing court should not substitute its own policy judgment.” Natural Resources Defense Council, Inc. v. Hodel, 865 F.2d 288, 294 (D.C. Cir. 1988) (quoting North Slope Borough v. Andrus, 642 F.2d 589, 599 (D.C. Cir. 1980)). NEPA’s alternatives requirement is also subject to this “rule of reason” and according to the courts “... that rule of reason necessarily governs both which alternatives the agency must discuss, and the extent to which it must discuss them.” Alaska v. Andrus, 580 F.2d 465 (D.C. Cir. 1978). Finally, “. . . [a]n agency is under no obligation to consider every possible alternative to a proposed action, nor must it consider alternatives that are unlikely to be implemented or those inconsistent with its basic policy objectives,” Seattle Audubon Society v. Moseley, 80 F.3d 1401, 1404 (9th Cir. 1996). What is important is that the agency adequately describe in the EIS its decision-making process with respect to the definition of the proposed action, the development of the purpose and need for the proposed action, the inclusion or exclusion of various related actions in the same document, and the selection of alternatives that meet the purpose and need.

The Council and NMFS can select those alternatives that meet the purpose of need for the proposed action and provide a discussion for those alternatives, or options within the alternatives that do not meet that purpose or need. In several of the NEPA documents that have been prepared by the Council and NMFS in the past staff have provided a brief discussion that details why certain alternatives or options were considered and rejected during Council deliberation.

Catcher/Processor sector recommendations

As part of its consideration of the full range of comments provided as part of the committee and scoping process, the Council requested that staff identify which elements of the catcher processor proposals are not currently included in the main suite of options recommended by the committee and discuss issues associated with those elements that were not carried into the suite of elements and options compared with retaining the structure of the original proposals as stand-alone alternatives. This request occurred because the CP sector were not members of the committee and testified that not all the elements and options of their proposals had been incorporated by the committee. Staff and C/P sector representatives jointly conducted this review. To address all the C/P concerns, options could be added to the suite, clarifications could be made as to whether many of the options apply to the C/P sector, and a sixth alternative for a “sectoral allocation” could be added. These are outlined and rationale provided in the next eight pages of recommendations. Staff did not “streamline” these recommendations due to time constraints, but would notice the Council that it may provide additional comments at a subsequent Council meeting.

Alternative 2. Revise the LLP

Element 9, Option 1: Cross out “inshore/offshore” and leave it at CV/CP

Element 10. Qualifying periods for LLP reduction: add an option for 1998-2002

Alternative 3, Subalternative 1, Harvester Only Quota-based Program (Quota Share Program)

Element 3. Qualifying Periods: add an option for 1998-2002

Element 4. Qualifying Landing Criteria: add total catch option based on following:

The data on which CVs will be awarded catch history is from fish tickets. Fish tickets include retained, discarded and meal, determined by the plant and signed off by the Captain. The data on which CPs will be awarded catch history is from Weekly Production Reports (WPR). WPRs include the vessel estimate of production and discards. CVs are interested in having meal count. As CVs have explained, it is up to the plants what goes into fish meal and what gets discarded, they have no control over it, therefore they don't want to be penalized by not having it included. CPs do not have fish meal plants, and have to discard that fish which a plant would have turned into fish meal. If the criteria for awarding catch history is retained catch, the CVs can get retained catch and meal, whereas the CPs only get retained catch. CVs are getting history for the equivalent of CP discards, and CPs are disadvantaged in their catch history award because they are not large enough for meal plants. If meal is included, then the retained history for shoreside will be a greater percentage of the catch than the retained history for CPs. The CVs and CPs are not operating on the same playing field under this formula. There are also markets for previously discarded fish, and CPs would not get that history for species which they could now sell.

Also, this option addresses how to award catch in terms of pounds versus percentage, but then also it is about a CV only issue – meal or not meal. These issues need to be separated and better reflect the issue as it affects both CVs and CPs. Therefore, CPs recommend three options in this section:

1. Landings based on total catch
CVs - retained, meal, discards from Fish Tickets
CPs – retained and discards from WPRs
2. Landings based on retained catch
CVs – retained from Fish Tickets, not to include meal
CPs – retained from WPRs
3. Catch history determination based on
 - a. percentage of catch for all species
 - b. poundage of catch

Element 5. Target Species Rationalization Plan. The CP sector raised numerous concerns regarding parity between the CV and CP sector under this element. See below.

Issue 2, Option 1 (Vessel categories), Suboption 2: Add a separate C/P class

Issue 3. Transferability and Restrictions on Ownership of QS/IFQs: The CPs interpret this issue to be about ownership of QS. The following rewritten suboptions are recommended:

Suboption 1. CPs can buy CV harvesting shares, but cannot process them.

Suboption 2. CPs cannot buy harvesting or processing shares

Suboption 3. CPs can buy harvesting and processing shares

Suboption 4. Establish first right of refusal system for each sector's share

Option 1. Suboption 4.: change to: Establish first right of refusal system for each sector's share. In other words, CPs have first right of refusal for CP shares and CVs have first right of refusal for CV shares. This was the original intent of the proposal, however it was modified by the Gulf Work Group. CPs suggest rewording all of Option 1 to reflect transfer of ownership. Other sections address leasing and limited processing. Suboption 5 is the same as Suboption 2, if these changes are made.

Option 2. Persons eligible to receive QS by transfer must be:

Suboption 1: Exempt CPs since this criteria is not applicable to non-fishing owners or corporate ownership and therefore is prejudicial against CPs, and some CVs. Most of the CP owners do not fish. This would prevent CPs from buying other CP shares.

Suboption 2: delete “and at least 150 days of sea time” as it is covered in Suboption 1.

Suboption 3. revise: Initial recipients of harvesting *and catcher processing* quota share.

Suboption 4. add suboption similar to the "A" shares in the IFQ program that allows C/P shares to be transferred to a new entity without restriction (other than use caps).

Option 4. Vertical Integration: Does Element 17. Suboption 4 conflict with Suboption 4 which proposes that processors may not acquire ownership interest in a harvesting vessel? Suboption 4 says you are grandfathered initially, but can't acquire more ownership interest, and then Option 4 under this element says you're capped at 115% of initial allocation. The CPs note the implications of Vertical Integration options which implies ownership under this element compared with how it's treated elsewhere.

Option 5. Definition of Sea Time: This is not applicable to corporate ownership and non-fishing owners. Also, different classes of vessels will need different treatment.

Option 6. Leasing of IFQs: Suboption 5 should be divided into two options, one for CVs and one for CPs, similar to the previous 4 suboption vessel class distinctions. Add a suboption allowing leasing of C/P shares without restriction similar to the IFQ "A" shares.

Option 7. Separate and distinct QS Use caps: CPs recommend separate option for CVs and CPs, or CPs should be exempt from use caps. These are also discussed under Option 7, Suboption 3 (i) and (ii).

Option 9. Owner on Board provisions: CPs recommend separate option for CVs and CPs, or CPs should be exempt from these provisions (as in the halibut/sablefish program), particularly, Suboption 3. Even though CPs may be grandfathered at initial issuance, they would be prevented from transferring to other CPs, which contradicts the revised Option 2 section on those eligible to receive transfers.

Option 10. Overages: who is responsible for overage, QS holder or lessee? Applying this provision to multi-species trips may be problematic. Option 1 appears to apply on a trip, or aggregate, basis, regardless of species. Does this add up: those with 10% underages get an increase in next year's allocation, those with 15% or less get docked. But in a multi-species fishery the overage and underages could be of different species. More clarification is needed. Will NMFS allow quota to be rolled from one year into the next? No under harvested tonnages on an annual basis ever translate into increased TAC for the next year. The initial allocations need to be taken care of first before any additional allocations are made based on a vessel's underage from the previous year. Everyone needs to be whole before these underharvested amounts of fish are allocated. Also, are the additional allocations transferable/leaseable? Or are they bonus fish to the QS holder for one year only, and non-transferable or leaseable?

Option 11. Retention requirements: revise flatfish to “shallow water flatfish”

Option 12. Limited processing: See Option 1 on transferability. These options need to be really clear as to their intent. Also, does Limited Processing really belong under Transferability and Restrictions on Ownership? This is not about transferring or owning QS, just about who can process groundfish and in what amounts. Suggested revisions to permit CPs to act as motherships:

Suboption 3. CPs may buy and process all species of CV fish.

Suboption 4. CPs may act as motherships and may only buy and process under-utilized species of CV fish.

Needed clarifications: when is it decided that it's an under-utilized species? If QS is allocated, and there is some remaining (enough for a directed fishery as per NMFS), then is that an under-utilized species? This "under-utilized species" will have to be formally defined for the purposes of this program. Additional issues raised by this: Can CPs that don't have history in an under-utilized species buy from CVs? If a CP never fished deep water flats, but have no history in it, but want to offer a market for it to CVs, can they do that? One argument against it is that these vessels could cherry pick fisheries that they had no historical participation in. There should be a provision that those who have access to open-access under-utilized species also have participation in those fisheries. Make sure that this applies to processing, and not just harvesting. (Element 8 under-utilized species Issues 3 and 4)

Element 6. Bycatch Species.

The CP sector recommends that the other rockfish exception needs to go under Option 1, or be its own Option. Clarification is needed on what is the threshold where NMFS will determine that QS of a certain species are no longer issued because of a reduction of that species TAC. These species will have to stay on MRB status instead. See Option 4 for similar discussion. Does this Option mean that the groundfish QS program's bycatch goes on PSC but not the sablefish and halibut program's bycatch? Not equitable treatment between the different IFQ programs. Add an option under Option 4 that if that happens, they do not get allocated and go on MRB status for everyone. (or make two suboptions for different treatments on this issue)

Option 5. T Shares. Add suboptions that hook and line T shares would be deducted from IFQ and in addition to IFQ. Suboption 3: Delete "retain sector designation upon sale" and make that suboption 3.

Element 7. PSC Species.

Issue 2. Option 2. Suboption 2. The A/B split is based on sea lion regulations. These could change in terms of amount of allowable harvest in A or B season, dates of A and B season, etc. CPs recommend against allocating halibut based on this criteria because CPs were pre-empted from the offshore cod fishery in 2002 after the 2nd quarter. Inshore used so much halibut in shallow water complex, that NMFS never opened up the cod fishery again. The CP historical usage would be next to nothing in 2002. (halibut is not currently managed CV/CP, only shallow water and deep water complexes). This option should be eliminated. If an option to allocate halibut to the cod fishery must remain (as separate from other halibut allocations) it could be replaced with an option that mirrors how it is done now: industry recommends to the Council PSC apportionment through the TAC-setting process. This may also indicate that the halibut issued for cod is earmarked only for cod. This makes it seem that the cod/halibut QS is inseparable since it is allocated separately. However, Issue 4 has an exemption for cod QS in terms of transferring halibut PSC QS.

Issue 5. Retention of Halibut bycatch in the longline fishery: See comments above in trawl sablefish T shares discussion. Clarify whether these are taken out of QS.

Element 8. Underutilized Species

CP sector raised issues regarding the definition of under-utilized species. What is an under-utilized species in open access may not be under-utilized under rationalization when all are individually accountable for halibut.

Issue 3. Option 1: would this be true of fully-utilized species too? Is that spelled out somewhere? Option 2 could not be applied to corporate owners of QS.

Issue 5: change heading to "Unallocated under-utilized species" (?)

Option 1: allocate halibut to open access at X% of under-utilized species halibut allocation (in other words, the halibut to fund the open access should not be deducted from the fully -utilized species' associated halibut).

Option 2: no halibut allocation for open access (thus ensuring a reduction in halibut bycatch for your QS fish, so that there's some left over for accessing this extra fish).

Element 9. Entry level rockfish program

The CP sector recommends the following change:

Option 2. No entry level rockfish program

- i. Gulf-wide
- ii. Central Gulf (incl W Yak)
- iii. Western Gulf

Element 11. Skipper/Crew and Second Generation

The CP sector recommends a placeholder on Issue 1. Option 5 (a) for separate CV and CP options.

Element 12. Reginalization

Option 1: Regionalization

Delete reference to “inshore” CGOA and WGOA Pacific cod and “and under-utilized species” are not subject to regionalization for CP shares. Clarify what happens if a CV share, that holds regionalization criteria, is sold to a CP, which is exempt?

Issue 2: Community Incentive Fisheries Trust

The CP sector recommends clarifying whether the proposal applies to processors or catcher processors.

Add an option that exempts CP from CIFT.

Option 1. QS distribution, add suboption that only takes CIFT QS from the QS of the sector to which CIFTs apply. Add an option for it not to come off the top. Add a suboption that if both sectors are subject to CIFTs, then CIFT QS is taken proportionate to each sector’s QS catch history. (In other words, if CPs have 60% of the catch, and the CIFT takes 20% off the top, 60% of that CIFT QS is deducted from CP and 40% from CV – assuming it’s a fully utilized species). Add an option for a CIFT to apply to under-utilized species only to encourage fuller utilization.

Option 6. Suboption 2. CP CIFT, add another range of percentages like the shoreside has (an A and B column) because the range is skewed against the CPs. The CPs are really the equivalent of the processors and community for the shoreside CIFT. The CIFT representation has a disproportionate share and there is no CP rep on the shoreside CIFT. CP crew are much fewer compared with the shoreside fleet:

CP rep	60%
CIFT rep	10%
Crew	15%
General	15%

Option 11. Suboption 2. Shares purchased by CIFT, add a suboption: CIFT cannot purchase shares from CPs.

Issue 3: Community Fisheries Quota

Issue 3. Community Fisheries Quotas, add suboptions for CP exemption and Under-utilized species exemption

Option 3, add an option to exclude CP or CV fish so that the CFQ being only to take fish from the sector that the CFQ applies to.

Option 4. suboption 1. Allocation in a range of 10-20% of annual *add “CFQ sector”* fish.

Issue 4: Territorial Use Rights in Fisheries

The CP sector recommends clarifying whether proposal applies to processors or catcher processors.

Issue 4. TURFS, add suboptions for CP exemption and Under-utilized species exemption

Option 4. Add option to exclude CP or CV fish, in other words we’re back to the TURF being only to take fish from the sector that the TURF applies to.

Option 7. Add suboption 4. CPs can harvest and process TURF shares

Option 7. Add suboption 5. CPs can process, but not harvest TURF shares (in the absence of a processing Option)

Alternative 3. Subalternative 2, QS-based Program with Fishing Cooperatives

Option. Suboption 1. 3.c. CVs and CPs: delete “grouping and offshore” in i. and ii.

Option. Suboption 1. 5.: either change caps to include a range, depending on what analysis shows, or have to options, one for CVs and one for CPs. This option, 30%, is too low for a CP coop, which easily would have more than 50% at initial allocation.

In Alternative 4, element 17, option 5, suboption 3, processors are grandfathered in at their initial allocation level. There is not provision for a co-op to be grandfathered in this Alternative – despite a provision for initial issues to be grandfathered in Alt. 3, Subatl. 1, Element 5, Issue 3, option 7.

Option. Suboption 1. 6. Vessel use caps are also covered in section mentioned in previous paragraph. Are these consistent? It seems like there are caveats to use caps all through out this document.

Option. Suboption 1. 12. Community protections requires a (c) that exempts CPs.

Option. Suboption 2. 3-7. These provisions are CV only provisions and should be noted in the document.

Alternative 4. Harvester QS Program with Closed Class of Processors, Subalternative 1. QS Program

The CP sector notes that all sectors should be grandfathered under Element 17. Option 5.

Alternative 4. Harvester QS Program with Closed Class of Processors, Subalternative 2, Fishing Cooperative

Element 16. Issue 1. add another option that allows that the remaining 50-10% could be delivered to a CP.

Alternative 5. Harvester and Processor QS Program, Subalternative 1, Voluntary Cooperative

Option 2. Catcher Processor QS is a statement, not an analytical option. It is a lot more restrictive than the IFQ sablefish/halibut program.

Option 3.: delete “inshore” after WGOA and CGOA Pacific cod since it is a CV program.

Option 5: define open delivery to include CP

Options 6-10: apply only to CV sector

Option 11: If CP shares are a distinct class, then how can a processor buy just the IPQ. Unless when a CP share is sold shoreside, it turns into an IFQ and an IPQ and becomes regionally designated or does not become regionally designated (suboptions).

Alternative 6. Sectoral Allocation

In support of a cooperative program that is not based on a QS program, the CP sector has submitted elements and options for a new Alternative 6. If adopted by the Council, it may wish to consult staff recommendations for similar elements and options under Alternatives 3 - 5 for the purposes of streamlining.

Element 1. Management Areas

Option 1. Applies Gulf-wide: Western Gulf, Central Gulf, W. YAK, SEO

Element 2. Eligible Sectors and Vessels

Applies to trawl and non-trawl gears

Applies to catcher vessels (CV) and catcher/processors (CP)

Sector history is defined by vessels and their catch history, not licenses

Current owner of vessel is presumed to be owner of catch history of vessel

Catch history is based on legal landings

Sunk vessel/replacement vessel provisions included consistent with other Council actions

Element 3. Qualifying Periods – no minimum landing requirements

Option 1. 95-2002 (Drop 1 or 2)

Option 2. 95-2001 (Drop 1 or 2)

Option 3. 98-2002 (Drop 1)

Option 4. 98-2001 (Drop 1)

Option 5. 99-2002

Element 4. Qualifying Landing criteria

Option 1. Total catch

i. catcher/processers: retained and discarded from WPRs

ii. catcher vessels: retained, meal and discarded from Fish Tickets

Option 2. Retained catch

i. catcher/processers: retained from WPRs

ii. catcher vessels: retained from fish tickets, not including meal

Element 5. Eligible Target Species

Pollock

Pacific cod

Pacific Ocean Perch

Northern rockfish

Pelagic rockfish

Deep water flatfish

Rex sole

Arrowtooth

Shallow water flatfish

Flathead sole

Element 6. Eligible Non-target species

Thornyhead rockfish

Rougheye rockfish

Shortraker rockfish

Sablefish

Other slope rockfish

Atka mackerel

Issue 1. Some non-target species are limiting, and not of adequate TAC for sectoral allocations, and will remain on bycatch status. For example, Western Gulf Other rockfish TAC: 90 mt. NMFS will determine annually.

Issue 2. If TACs increase enough to support a directed fishery, then sectoral allocations will be made for that species based on the three years sectoral history prior to the year that the species became bycatch only

Element 7. Prohibited species

Trawl halibut

Non-IFQ fixed gear halibut

Element 8. Target Allocations

Each sector of vessels will be allocated the percentage of each target species that is equivalent to the;

Option 1. average annual percentage

Option 2. average percent of aggregate total harvest
by that sector of such target species, based on qualifying years, relative to the total amount of such species
harvested during the same time period, in such directed fishery

Element 9. Non-target and PSC Species Allocation

Each sector of vessels will be allocated:

Option 1. Non-target and PSC: the percentage of non-target and PSC species in each target species directed
fishery that is equivalent to the;

- i. average annual usage
- ii. average percent of aggregate total harvest

by that sector of such non-target and PSC in such directed fishery, based on qualifying years, relative to the
total amount of such non-target and PSC species harvested during the same time period, in such directed
fishery.

Option 2. Non-target: the percentage of non-target species in each target species directed fishery that is
equivalent to the;

- i. average annual usage
- ii. average percent of aggregate total harvest

by that sector of such non-target species in such directed fishery, based on qualifying years, relative to the
total amount of such non-target species harvested, during the same time period, in such directed fishery.

Option 3. PSC:

Suboption 1. Average bycatch rates, by area, by gear

- i. by quarter

Suboption 2. the percentage of PSC species in each target species directed fishery that is
equivalent to the;

- i. average annual usage
- ii. average percent of aggregate total harvest

by that sector of such PSC species in such directed fishery, based on qualifying years, relative to the total
amount of such PSC species harvested, during the same time period, in such directed fishery.

Element 10. Coops

Issue 1. Coop participation

Option 1. Coops are voluntary

Suboption 1. Require majority of 75% (range of %s) of eligible vessels to form sector/gear coop

Option 2. Coops are mandatory

Option 3. Coops can be comprised of one sector/gear type only

Option 4. Coops can be comprised of vessels from different sectors/gears

Issue 2. Coop Allocations

Option 1. coop allocations will be based on same formula as used for sectoral allocations

Issue 3. Open Access (if Voluntary Coops)

Option 1. Any vessels that do not want to enter into coop agreements will fish in open access. The catch
history from non-participating vessels, based on same qualifying years, will go into the open
access pool.

Issue 4. Under-utilized Species Allocations

Those species that have ABCs greater than TAC, or that are do not reach bycatch status on an annual
basis, are considered under-utilized. NMFS will determine as appropriate. The disposition of those species
will be as follows:

Option 1. coop is allocated 125% of the coop's catch history

Option 2. coop participants can fish open access when their coop's under-utilized species are harvested

Suboption 1. can use open access PSC

Suboption 2. cannot use open access PSC

Suboption 3. cannot use open access PSC prior to August 1.

Issue 5. Transferability

Option 1. Full transferability of target, non-target, PSC between coops

- i. transfers of target, non-target, PSC not linked
- ii. transfers of target, non-target, PSC linked

Summary of how Alternative 6 differs from Alternatives 3-5:

Element 1. Includes SEO because it will give the CP sector a sectoral split of their history in the SEO prior to 1998 when LLP program eliminated them. There may be a possibility of co-oping that fish and leasing it back to longline fishery.

Element 3. 99-2002: suggested by a freezer/longliner.

Element 4. Total catch vs retained. Many CPs want total catch history, the Elements and Options identifies only retained catch history. CP sector testified to the Council in December that it would submit a revised proposal. Total catch vs. retained that was in original proposal is one such issue. The issue of not including meal for retained criteria is also very important to CPs.

Elements 8-9: the allocation formulas presented are different that in Alternatives 3-5 because it's a sector split instead of an individual QS. Also, the QS options for awarding catch are based on either pounds or a percentage of total retained catch. This option does not consider pounds, but bases award options on percentages of total harvest (either annually or aggregate of # of years). These options will better indicate sectoral shares of total harvest, especially since TACs change annually.

Element 10. Coops - The added option of open access PSC becoming available after August 1 is that much of the spawning seasons and aggregated populations (highest period of CPUE) are over.

